

Wisconsin Sales and Use Tax Information

Includes information regarding —

- **5% state sales and use tax**
- **0.5% county sales and use tax**
- **0.1% baseball stadium sales and use tax**
- **0.5% football stadium sales and use tax**

Table of Contents

	Page		Page
I. INTRODUCTION.....	1	Due Date for Filing	11
II. DIFFERENCE BETWEEN WISCONSIN SALES TAX AND USE TAX.....	1	Obtaining an Extension of Time to File	11
Sales Tax	1	Payment of Tax	11
Use Tax.....	2	Retailer's Discount.....	11
III. OBTAINING A SELLER'S PERMIT	3	Correcting an Error – Underpayments	12
Who Must Obtain a Seller's Permit?	3	Overpayments – Filing Claims for Refund	12
Caution: Buying a Business – Successor's Liability ...	3	Failing to File or Pay or Filing Incorrect Returns Is Costly	12
When Should You Apply?.....	3	IX. RECORD KEEPING.....	14
How Do You Apply for a Seller's Permit?.....	3	General Records to Keep	14
Security May Be Required.....	4	Records to Keep – Exempt Sales, Exemption Certificates	14
Issuance of the Seller's Permit.....	4	X. WHAT'S TAXABLE	15
Notifying Department of Changes to Your Account ...	4	A. Tangible Personal Property	15
Your Seller's Permit Can Be Revoked	4	B. Services	15
Temporary Events.....	4	XI. WHAT'S EXEMPT	20
Changing Your Form of Ownership	4	A. General.....	20
Reporting Requirement for Operators of Swap Meets, Flea Markets, Craft Fairs, or Similar Events	5	B. Exemptions Based on Use or Other Criteria (Certificates Not Required).....	20
IV. REGISTERING FOR USE TAX.....	5	C. Exemptions Based on Use or Other Criteria (Certificate Required)	25
Out-of-State Retailers – Use Tax Registration	5	D. Exempt Organizations.....	30
Voluntary Registration.....	6	E. Other Exemptions	32
Consumer Use Tax Registration.....	6	XII. CONTRACTORS	35
Application	6	How Contractors Are Taxed on Labor, Materials, and Supplies	35
V. BUSINESS TAX REGISTRATION.....	6	Contractor's Tools and Equipment.....	35
Permits/Certificates Covered by BTR	6	Contractors Constructing Buildings for Governmental Units, Schools, Churches, Hospitals, or Other Exempt Institutions.....	35
Persons Who Held Permits or Certificates on December 31, 1995.....	6	Construction, Renovation, or Development of Professional Sports and Entertainment Home Stadiums.....	35
Renewals.....	7	XIII. RENTALS – LESSORS.....	35
Expedited Fee	7	XIV. MANUFACTURERS.....	36
Faxing the Application	7	Exemption for Manufacturing Machines and Specific Processing Equipment.....	36
VI. COMPUTING THE AMOUNT OF SALES AND USE TAX.....	7	Exemption for Ingredients, Component Parts, and Consumable Items.....	37
Sales Tax Imposed on "Gross Receipts"	7	XV. SELLING A BUSINESS OR BUSINESS ASSETS	37
Use Tax Imposed on "Sales Price"	8	XVI. OCCASIONAL SALES.....	37
Collecting Tax From Customers.....	8	Exempt Occasional Sales By Nonprofit Organizations	37
VII. ACCOUNTING METHODS	9	Sales by Auction	38
VIII. FILING RETURNS AND PAYING THE TAX.....	9		
How Often Must a Return Be Filed?	9		
Electronic Filing	9		
Business at More Than One Location.....	10		
Single-Owner Entity Disregarded as Separate Entity	10		
Seasonal Retailers	10		

Sales Which Are Not “Occasional Sales”	38	Premier Resort Area Taxes	47
Occasional Sales of Motor Vehicles, Boats, Etc., Are Taxable	38	Rental Vehicle Fee	47
XVII. DIRECT PAY	39	XXI. KEEPING AWARE OF NEW SALES AND USE TAX DEVELOPMENTS	47
Who Is Eligible for Direct Pay?	39	Sales and Use Tax Report	47
How to Apply for a Direct Pay Permit	39	Publications	47
Additional Information	39	Wisconsin Tax Bulletin	48
XVIII. COUNTY AND STADIUM SALES AND USE TAXES	39	Rules - Wisconsin Administrative Code	48
A. Introduction	39	Topical and Court Case Index	48
B. What Types of Tangible Personal Property and Services Are Taxable?	41	XXII. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?	48
C. What Sales Are Subject to the County and Stadium Sales Tax?	41	XXIII. BUSINESS DEVELOPMENT ASSISTANCE – DEPARTMENT OF COMMERCE PERMIT INFORMATION CENTER	49
D. When Do the County and Stadium Use Taxes Apply?	42	APPENDIX A: Sales and Use Tax Forms	50
E. Transitional Provisions	44	APPENDIX B: Sales and Use Tax Rules	51
F. Collecting County and Stadium Tax From Customers	45	APPENDIX C: Section Tax 11.92 – Records and Record Keeping	52
G. Sales and Use Tax Return Will Require County and Stadium Tax Data	45	APPENDIX D: Section Tax 11.14 – Exemption Certificates	54
H. Seller’s Permits	45	APPENDIX E: Wisconsin Sales and Use Tax Exemption Certificate	57
I. Audits, Appeals, Collections, Etc.	45	APPENDIX F: Bracket System	59
XIX. YOU MAY BE AUDITED	45		
XX. OTHER TAXES AND FEES TO BE AWARE OF	45		
Individual Income Tax	46		
Corporation Income or Franchise Tax	46		
Withholding	46		
Estimated Tax for Individuals	46		
Estimated Tax for Corporations	46		
Unemployment and Worker’s Compensation	46		
Motor Vehicle Alternate Fuel Tax	46		
Local Exposition Taxes	46		
Dry Cleaner Fees	46		

IMPORTANT CHANGES

Integrated Tax System Implementation Changes (various pages)

- Application for Business Tax Registration (Form BTR-101) replaces the Application for Certificate/Permit (Form A-101).
- Black ink should be used when completing Form BTR-101.
- Schedule 1 of Form BTR-101 must be completed for each additional business location.
- Mobile seller's permits are no longer issued. Persons selling from a nonfixed location will be issued a regular seller's permit.
- Multiple locations for a single seller's permit are no longer designated with a unique letter suffix.
- A post card will no longer be sent with a permit or certificate for use in notifying the department of changes in your account. You are still required to notify the department of such changes. Notification may be made on your sales and use tax return (Form ST-12), by mail or e-mail.
- Bracket system tables by rate used in collecting Wisconsin sales tax are contained in Publication 229, Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales.

Form ST-12X, Amended Sales and Use Tax Return, should no longer be used to amend a sales and use tax return. Form ST-12, Wisconsin Sales and Use Tax Return, should be used to correct a previously filed sales and use tax return. Page 12.

Certain Exempt Sales of Cattle, Sheep, Goats, and Pigs do not need to be supported by an exemption certificate. Page 14.

Mobile Telecommunications Services are subject to Wisconsin sales or use tax if the place of primary use is in Wisconsin. Page 19.

Grant County and Green County have adopted the county tax, effective April 1, 2002 and January 1, 2003, respectively. Page 39.

I. INTRODUCTION

This publication provides information about Wisconsin sales and use taxes. It explains who must have a seller's permit or use tax certificate, how sales tax is charged to customers and use tax is paid by purchasers. It also includes information on how to file returns, compute the tax owing the Department of Revenue, and the importance of keeping proper records, including exemption certificates.

Part II describes common situations involving use tax. Parts X and XI explain what types of personal property and services are taxable or exempt.

The tax treatment of contractors, lessors, and manufacturers is described in Parts XII, XIII, and XIV. Information about the 0.5% county and 0.1% and 0.5% stadium sales and use taxes is found in Part XVIII.

The Department of Revenue has offices located throughout Wisconsin to help you. If you have questions, you may write to the Department of Revenue in Madison or call or visit any department office listed on pages 48 and 49 of this publication.

CAUTION

The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of November 1, 2002. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in this publication.

The examples and lists of taxable and nontaxable sales and purchases are not all-inclusive. They merely set forth common examples.

II. DIFFERENCE BETWEEN WISCONSIN SALES TAX AND USE TAX

Sales Tax: The Wisconsin sales tax is a 5% tax imposed on the gross receipts of retailers who sell or lease tangible personal property or taxable services at retail in Wisconsin. The sales tax applies to retail sales. All sales are generally considered retail sales unless the buyer purchases the tangible personal property or taxable service for the purpose of reselling it.

Common examples of retail sales include the following:

- A Wisconsin clothing store sells a dress to a customer in Wisconsin. (The sale of the dress by the clothing manufacturer to the retail clothing store is not a retail sale because the clothing store is going to resell the dress.)
- A Wisconsin car dealer sells a car to a customer in Wisconsin for his or her use.
- A Wisconsin lumber yard sells lumber to a carpenter in Wisconsin who uses the lumber to construct a house or other real estate.

Use Tax: The Wisconsin use tax is a 5% tax imposed on the sales price of tangible personal property or taxable services that are used, stored, or consumed within Wisconsin, upon which a Wisconsin sales or use tax has not previously been paid. An exception to computing use tax based on the sales price of tangible personal property applies to motor vehicles used by licensed motor vehicle dealers for any purpose in addition to retention, demonstration, or display (refer to Wisconsin Publication 202, “Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs”).

If Wisconsin did not have a use tax, persons could buy items in another state to avoid paying Wisconsin tax on such purchases.

Common use tax situations include the following:

- Property to be used in Wisconsin is purchased outside the state and the property would have been subject to sales tax if purchased in Wisconsin.

Example: A Wisconsin company purchases an office machine for \$10,000 from an Illinois seller who has not charged the Wisconsin 5% sales or use tax on the transaction. The machine is used in Wisconsin. The buyer (Wisconsin company) is liable for Wisconsin use tax of \$500 ($\$10,000 \times 5\% = \500) less any Illinois sales tax the buyer properly paid to the seller.

- Building materials are purchased by a nonresident contractor from a seller located in another state and the seller either does not charge sales tax or charges a tax at a rate less than 5%. The nonresident contractor uses the materials on a real property job in Wisconsin. The nonresident contractor owes the 5% Wisconsin use tax on its cost of the materials at ei-

ther the full 5% rate or the difference between 5% and any lesser rate of sales tax properly paid to its supplier.

- Property is purchased for resale (to sell to others) or for a nontaxable use and then is used by the purchaser in a taxable manner. Sales tax was not charged when purchasing the property.

A common situation is a Wisconsin contractor who constructs buildings and also makes retail sales of construction materials. The contractor does not know how the materials will be used (in buildings or resold to others). The contractor may purchase such materials without payment of sales tax by giving an exemption certificate to the seller claiming resale. However, if the materials are used by the contractor for purposes other than for resale, the contractor must report the “sales price” (i.e., the price at which the contractor purchased the material) of such materials as subject to use tax.

Example: A contractor constructs buildings and also makes retail sales of construction materials. He purchases lumber costing \$12,000 without payment of the sales tax by giving a resale certificate to the seller. However, the contractor then uses \$10,000 of the lumber in constructing a building. The contractor owes \$500 use tax ($\$10,000 \times 5\% = \500) on the lumber which is used in constructing a building. The remaining lumber which cost \$2,000 is sold to a customer for \$3,000 (a retail sale). Sales tax of \$150 ($\$3,000 \times 5\% = \150) should be collected from the customer on this retail sale of \$3,000.

- Property is purchased outside Wisconsin without payment of the Wisconsin sales tax and is then brought into Wisconsin and given away free.

Examples of such items which may have been acquired without sales tax are:

- a. A bank's or savings and loan's purchase of coin savings banks, calendars, or other items to be given free to the customer. Checking account or savings account forms furnished to customers free of charge are also subject to use tax.

Example: A bank or savings and loan company purchases for \$10,000 clocks and blankets which it gives to its customers if they deposit a specified amount in an account. The bank or

savings and loan owes \$500 use tax ($\$10,000 \times 5\% = \500) on such items.

- b. A retailer's, such as a department store's, purchase of advertising materials which the retailer distributes free of charge to Wisconsin customers.
- c. A retailer's purchase of Christmas gifts or grand opening gifts which are distributed free to customers.
- d. A paint retailer's purchase of color cards which are distributed free to customers.
- Property is purchased from a supplier outside Wisconsin without payment of the Wisconsin sales tax and the supplier ships the property to the purchaser's Wisconsin locations at the direction of the purchaser.
- Property (other than advertising material and raw materials incorporated into printed materials) is purchased from a supplier outside Wisconsin without payment of the Wisconsin tax and the supplier ships the property to Wisconsin where it is stored by the purchaser until subsequently shipped outside Wisconsin.

IMPORTANT: Failure to report Wisconsin use tax is the most common error discovered in audits by the Department of Revenue. Be sure to keep proper records of purchases made which are subject to use tax and report this information on your sales and use tax return. Filing incorrect returns can result in very costly penalties which are described in Part VIII.

III. OBTAINING A SELLER'S PERMIT

Who Must Obtain a Seller's Permit?: Every individual, partnership, corporation, or other organization making retail sales or rentals of tangible personal property or retail sales of taxable services in Wisconsin is required to have a seller's permit, unless all sales by the seller are exempt from sales or use tax.

Caution: Buying a Business – Successor's Liability: The purchaser of a business (the successor) is liable for any unpaid sales and use taxes of the seller for that business. The purchaser should withhold a sufficient

amount from the purchase price to cover any unpaid sales and use taxes of the seller.

The purchaser may write to the Department of Revenue, PO Box 8902, Madison, WI 53708-8902, to request a "Sales and Use Tax Clearance Certificate" indicating that all Wisconsin sales and use tax liabilities of the seller for that business are satisfied.

When Should You Apply?: Apply for a seller's permit at least three weeks before you open your business. If you buy an existing business, the seller's permit cannot be transferred to you. You must apply for a new permit. If you applied for a seller's permit before you opened your business but did not receive the permit at the time of opening the business, you are allowed to make retail sales of tangible personal property and taxable services. However, you are liable for the sales and use taxes and for keeping proper records from the date of opening the business. The returns (Form ST-12) for reporting your sales and use taxes will be sent to you by the end of your reporting period.

How Do You Apply for a Seller's Permit?: Application for a seller's permit is made on Form BTR-101, "Application for Business Tax Registration." This form may be obtained from any Department of Revenue office or on-line. See page 48. Complete the form and mail it to the Department of Revenue. Keep a copy of the completed application for your records.

Note: It is important that you fill in all the requested information on Form BTR-101.

If two or more activities are conducted by you at the same business location, only one permit is required. For example, if you have a service station and a restaurant at the same location, but in different buildings, only one seller's permit is required for both businesses.

If you have more than one business location where you make retail sales, a separate seller's permit is needed for each location. You should file only one "Application for Business Tax Registration" for all locations, completing Schedule 1 of Form BTR-101 for each location. (Also see Part VIII for filing your return if you have more than one location.)

This permit is not transferable and is not valid at any other location.

A business tax registration fee of \$20 may be required. For more information, see Part V on page 6.

Security May Be Required: Before or after the Department of Revenue issues you a seller's permit, it may require you to make a security deposit up to \$15,000. If you do not make a security deposit as requested, the department may refuse to issue you a seller's permit or may revoke your permit.

In determining whether or not security will be required and the amount of security, the department may consider the applicant's payment of all taxes administered by the department and any other relevant facts. Security is most commonly requested when there has been a history of delinquent taxes associated with the applicant.

If a security request is made, the department will send a notice of the requirement and additional information about the calculation of the amount. Included will be information about the types of security that can be deposited.

Return of Security Deposit: Any security deposit will be returned to you if for 24 consecutive months you complied with the sales and use tax law.

Refer to sec. Tax 11.925, Wis. Adm. Code, "Sales and use tax security deposits," for more information.

Issuance of the Seller's Permit: After receiving the "Application for Business Tax Registration," and the security deposit (if requested), a seller's permit will be issued to you by the Department of Revenue. You must display the seller's permit in a prominent location at your place of business. If that is not a fixed location, it should be displayed or carried at the various events. A personal wallet copy will be sent with your seller's permit to provide you with easy access to your permit number.

Notifying Department of Changes to Your Account: You should notify the Department of Revenue of changes in your address and/or ownership, or if you cease operating your business, in one of the following ways:

1. Your sales and use tax return (Form ST-12) may be used to make changes to your account. Check the box on page 1 of Form ST-12 at the upper right and

make changes to your name or mailing address. If your business is discontinued, check the box on page 2 of Form ST-12 and enter the date the business ceased making sales of tangible personal property and taxable services. For other changes, check the "correspondence included" box on page 2 of Form ST-12 and enclose a letter of explanation with the Form ST-12.

2. Write to the department indicating the address or ownership changes, or if you cease operating your business. Be sure to include in the correspondence the following information:

- Tax account number. Include the business name and address if you have more than one location.
- Federal employer identification number (FEIN).
- Effective date of changes.
- Explanation of changes to your legal name, if applicable.

Send to the Madison address given in part XXII on page 48.

Your Seller's Permit Can Be Revoked: Wisconsin law gives the Department of Revenue authority to revoke your seller's permit if you fail to file returns or pay taxes when due or if you do not deposit security as requested. In such a case, the department will notify you of a hearing to show cause why your seller's permit should not be revoked.

If you make retail sales after your seller's permit has been revoked, you may be subject to criminal prosecution.

Temporary Events: You are required to have a seller's permit if you conduct business as a retailer at a "temporary event." A "temporary event" is an activity at one place of operation (e.g., fair, carnival, festival, portable roadside stand) for a brief duration where taxable sales are made.

Refer to sec. Tax 11.53, Wis. Adm. Code, "Temporary events," for more information.

Changing Your Form of Ownership: If you change your form of ownership, such as from a sole proprietorship to a partnership or to a corporation, you must apply for a new seller's permit. Partnerships that add or drop

partners must notify the department in writing of the change in partners involved. If a new Federal Employer Identification Number is assigned, you must apply for a new Wisconsin seller's permit. If you sell your business, your seller's permit is not transferable to the buyer. You should return your seller's permit to the department.

Refer to Part XV for additional information on the sale of a business.

Reporting Requirement for Operators of Swap Meets, Flea Markets, Craft Fairs, or Similar Events:

An operator of a swap meet, flea market, craft fair, or similar event must report to the Department of Revenue the name, address, and seller's permit number (social security number is required if no Wisconsin seller's permit number is listed) of each vendor selling merchandise at the swap meet, flea market, craft fair, or similar event. Form S-240, Attention: Operators and Vendor Sellers, may be used to obtain the required information and forward it to the department. Form S-240 may be obtained from a Department of Revenue office or on-line.

IV. REGISTERING FOR USE TAX

Out-of-State Retailers – Use Tax Registration: Although a retailer may have no location in Wisconsin from which sales of tangible personal property or taxable services are made, the retailer is engaged in business in Wisconsin, for purposes of the sales and use tax law, if one or more of the following conditions exist:

- The retailer owns any real property in Wisconsin.
- The retailer leases or rents out any tangible personal property located in Wisconsin.
- The retailer maintains, occupies or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, agent, or other person, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business in Wisconsin. (See exception below for foreign corporation publishers.)
- The retailer has any representative, agent, salesperson, canvasser, or solicitor operating in Wisconsin under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking or-

ders for any tangible personal property or taxable services.

- The retailer services, repairs, or installs products in Wisconsin.
- The retailer regularly delivers goods into Wisconsin in company operated vehicles.
- The retailer performs construction activities in Wisconsin.

An out-of-state retailer with no Wisconsin location from which sales are made, but who is engaged in business in Wisconsin based on any of the above conditions, must apply to the Department of Revenue for a use tax certificate. The retailer must report Wisconsin use tax on sales in Wisconsin or sales that are for storage, use, or consumption in Wisconsin.

Refer to sec. Tax 11.97, Wis. Adm. Code, “‘Engaged in business’ in Wisconsin,” for more information about use tax obligations of out-of-state retailers.

Exception: A publisher that is a foreign corporation (i.e., a corporation that is not organized under Wisconsin law) is not considered to be a retailer engaged in business in Wisconsin if its activities in Wisconsin do not exceed:

1. The storage of the publisher's raw materials for any length of time in Wisconsin in or on property owned by a person other than the publisher and the delivery of the publisher's raw materials to another person in Wisconsin if that storage and delivery are for printing by that other person.
2. The purchase from a printer of a printing service or of printed materials in Wisconsin for the publisher.
3. The storage of the printed materials for any length of time in Wisconsin in or on property owned by a person other than the publisher.
4. Maintaining, occupying, and using, directly or by means of another person, a place that is in Wisconsin, that is not owned by the publisher and that is used for the distribution of printed materials.

Therefore, a publisher that is a foreign corporation is not required to collect Wisconsin use tax on its sales or delivery of tangible personal property or taxable serv-

ices in Wisconsin if no more than the above activities occur in Wisconsin.

Voluntary Registration: Out-of-state retailers who are not engaged in business in Wisconsin, but who desire to collect use tax for the convenience of their Wisconsin customers, may also register for use tax to relieve their customers from filing returns and paying the taxes directly to the Department of Revenue. Such out-of-state retailers, if they voluntarily register for use tax, must then collect use tax from purchasers and pay the tax in the same manner as other retailers engaged in business in Wisconsin.

The Department of Revenue may enter into agreements with such retailers to negotiate payment schedules and audit procedures. The out-of-state retailer entering into such an agreement is entitled to retain a greater portion of use tax collected in lieu of the retailer's discount discussed on page 11.

For more information on such agreements, write to Wisconsin Department of Revenue, Mail Stop 6-40 PO Box 8933, Madison, WI 53807-8933, call (608) 266-1911, or e-mail witaxlink@dor.state.wi.us.

Consumer Use Tax Registration: Every person who *regularly* has use tax obligations because purchases are made without sales or use tax being charged by the seller, should apply for a consumer's use tax certificate, unless the person is required to have a seller's permit or use tax certificate. Persons who have a consumer's use tax certificate are sent a Wisconsin sales and use tax return (Form ST-12) near the end of each reporting period.

Any person (whether in business or not) who does not regularly purchase or lease taxable property or services for storage, use, or other consumption in Wisconsin without sales or use tax being charged by the seller is not required to apply for a consumer's use tax certificate. However, the person must pay use tax to the Department of Revenue on those purchases. The person, if not required to be registered for sales and use tax purposes, may report the use tax 1) on the individual Wisconsin income tax return on the line titled "Sales and use tax due on out-of-state purchases," or 2) on a consumer's use tax return (Form UT-5).

If the sale was also subject to sales or use tax in another state in which the purchase was made, the amount of

sales or use tax paid to the other state, not to exceed the amount of Wisconsin tax, may be credited against the Wisconsin use tax due.

Application: Application for a use tax certificate or a consumer's use tax certificate is made on Form BTR-101, "Application for Business Tax Registration."

A business tax registration fee of \$20 may be required from persons applying for a use tax certificate. Persons applying for a consumer's use tax certificate are not required to pay a business tax registration fee. For more information on business tax registration, see Part V below.

V. BUSINESS TAX REGISTRATION

Persons applying for certain permits or certificates issued by the Department of Revenue may be required to pay a Business Tax Registration (BTR) fee of \$20, as explained below.

The \$20 BTR fee applies only to the first permit or certificate a person applies for on or after January 1, 1996. Subsequent registrations for other permits or certificates do not require additional BTR fees.

All types of entities, including state and local government agencies, are subject to the BTR fee, government United States agencies are not subject to the BTR fee.

Permits/Certificates Covered by BTR: The BTR fee applies to most permits or certificates issued by the Department of Revenue, including seller's permits and use tax certificates. The \$20 BTR fee is not required for a Certificate of Exempt Status (CES), consumer's use tax certificate, or local exposition district tax registration.

The BTR fee is \$20, regardless of the number of locations for which you need seller's permits.

Persons Who Held Permits or Certificates on December 31, 1995: Persons who held any active permit or certificate on December 31, 1995, that is covered by the BTR provisions, do not have to pay the \$20 BTR fee.

Example: Employer ABC has been in business for several years and had a Wisconsin employer identification

number on December 31, 1995. ABC does not have to pay the \$20 BTR fee.

Persons who held any active permit or certificate on December 31, 1995, that is covered by the BTR provisions, may apply for additional permits or certificates without paying the \$20 BTR fee.

Example: Employer ABC in the previous example applies for a seller's permit in 2002. ABC does not have to pay the \$20 BTR fee.

Persons who held only permits or certificates on December 31, 1995, that are not covered by the BTR provisions, must pay the \$20 BTR fee if they apply for a permit or certificate that is subject to the BTR fee.

Example: XYZ Church, which holds a Certificate of Exempt Status issued in 1994, applies for a seller's permit in 2002. XYZ is required to pay the \$20 BTR fee.

Renewals: The initial \$20 BTR fee covers a period of two years. At the end of that period, a \$10 BTR renewal fee applies. The renewal fee applies to all persons holding permits or certificates subject to BTR provisions, including those who paid the initial \$20 BTR fee and those who were not required to pay the initial \$20 fee because they held an active registration on December 31, 1995.

Example: Repairman DEF holds a seller's permit issued in 1986, so he was not required to pay the initial \$20 BTR fee. Even though he didn't have to pay the \$20 fee, he *will* be required to pay the \$10 renewal fee.

The BTR renewal fee is \$10 regardless of the number of locations for which you hold seller's permits.

Expedited Fee: Persons may receive immediate service on their application for a seller's permit or use tax certificate (not a consumer's use tax certificate). This service is available only at the department office located at 2135 Rimrock Road, Madison or may be done by faxing your Application for Business Tax Registration as explained below.

A \$10 "expedited fee" is charged for this service. The fee is charged for each entity applying.

Faxing the Application: The Application for Business Tax Registration (Form BTR-101), may be faxed to the department at (608) 280-3568. You should do the following when faxing the application:

- Include a cover sheet with the contact person's name and fax and telephone numbers.
- Use black ink.
- Indicate estimates in Part E, line 1 of the application.
- Complete all pages of the application.
- If you want the processing of your application expedited as described above, write "Expedited" in the upper left-hand corner of the application (there is an additional fee for this service).

VI. COMPUTING THE AMOUNT OF SALES AND USE TAX

Sales Tax Imposed on "Total Sales": The 5% sales tax is imposed on a retailer's taxable "gross receipts" ("Total sales" on the sales and use tax return). "Total sales" is the total amount of the sale or rental price from retail sales of tangible personal property or taxable services, whether received in money or something other than money. If the purchaser is charged by the seller for the delivery of the property or the service, the transportation charges must be included in "total sales."

Example: You sell furniture for \$950 and also charge \$50 for delivering the furniture to the customer. Your "total sales" subject to sales tax are \$1,000 (\$950 + \$50). The 5% sales tax on these total sales is \$50 (\$1,000 x 5% = \$50 tax). See page 20 for more information on transportation charges.

The 5% sales tax is imposed on taxable "total sales," regardless of whether the tax is collected from the customer.

Note: If the total sales are subject to the 0.5% county sales tax, the total tax rate is 5.5%. If the total sales are subject to the 0.1% baseball stadium tax, the total tax rate is 5.1% (5.6% if the county tax also applies). If the total sales are subject to the 0.5% football stadium tax, the total tax rate is 5.5%.

“Total sales” do not include:

- Charges for interest, financing, or insurance, if such charges are separately stated on the invoice.
- Cash or term discounts taken on sales.

Example: You sell a refrigerator for \$500 but gave the customer a 2% discount of \$10 because payment was made within ten days. The “total sales” subject to tax are \$490 (\$500 less \$10 discount) on which the 5% sales tax is \$24.50 ($\$490 \times 5\% = \24.50 tax).

If tangible personal property is traded in, “total sales” is the difference between the price of the property purchased and the amount allowed for the property traded in.

Example: If a customer receives a \$4,000 trade-in allowance for an old car when purchasing a new car selling for \$20,000, the “total sales” subject to tax are \$16,000 (\$20,000 less \$4,000 trade-in) and the 5% sales tax on this sale is \$800 ($\$16,000 \times 5\% = \800).

In cases where the tax has been collected from customers and they have been notified of that fact, the amount of the tax so collected should not be included in the base to which the 5% applies in computing the tax due to the state.

Use Tax Imposed on “Sales Price”: The 5% use tax is imposed on the “sales price” of the property or taxable services purchased from any retailer. “Sales price” has the same meaning as “total sales,” that is, it is the total amount of the sale or rental price from retail sales of tangible personal property or taxable services, whether received in money or something other than money.

Example: If you buy equipment with a sales price of \$10,000 from an out-of-state retailer who does not charge the Wisconsin 5% sales or use tax on the transaction, you are liable for a 5% use tax of \$500 on the “sales price” of \$10,000.

Exceptions:

1. Wisconsin licensed motor vehicle dealers who use motor vehicles for a purpose in addition to retention, demonstration, or display while holding them for sale report use tax on a certain dollar amount or fair lease value per month. For more information,

refer to Wisconsin Publication 202, “Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs.”

2. If tangible personal property was purchased without sales or use tax using a valid exemption certificate, and the buyer uses the property in some other manner or for some other purpose more than six months after the purchase, the amount subject to tax is the “sales price” or the fair market value of the property at the time the taxable use first occurs.

Collecting Tax From Customers: To separately state the tax and pass the tax on to your customers, you may use the “bracket system” or a mathematical computation.

The bracket system is a method of collecting taxes designed so that the total amount of tax collected from customers equals approximately 5% of your taxable gross receipts (5.5% if county tax applies, 5.5% if football stadium tax applies, 5.1% if baseball stadium tax applies, and 5.6% if both county and baseball stadium taxes apply), if your sales fall equally throughout all the brackets. However, the gross sales tax payable by you to the Department of Revenue is 5% of your taxable gross receipts (5.5% if county tax applies, 5.5% if football stadium tax applies, 5.1% if baseball stadium tax applies, and 5.6% if both county and baseball stadium taxes apply), regardless of the amount of tax collected from customers by using the “bracket system.”

The bracket systems to be used to determine the tax that may be collected from customers can be found in Appendix F, pages 59 and 60. Tables of the rate combinations are in Publication 229, *Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales*.

A bracket system chart (Form S-213 or S-218) or similar document should be posted in a conspicuous place in your establishment, unless a receipt is issued by you which separately itemizes the tax.

Form S-213 (5% or 5.5% rate), Form S-218 (5.6% and 5.1% rate), and Publication 229 may be obtained from any Department of Revenue office or on-line.

If you do not use the bracket system, you are required to determine the amount of tax due on a transaction by multiplying the applicable tax rate by the aggregate sales price of all taxable items sold in a single transac-

tion. The tax rate may not be multiplied by the sales price of each item separately and then summed. The tax collectible from the customer should be rounded to the nearest cent by using the following procedures:

- a. For amounts less than \$0.005, the amount should be rounded down to the next lowest penny.
- b. For amounts equal to or greater than \$0.005, the amount should be rounded up to the next highest penny.

It is illegal for a retailer to state or advertise that the sales tax or any part of the tax will be assumed or absorbed by the retailer.

Refer to sec. Tax 11.32, Wis. Adm. Code, “‘Gross receipts’ and ‘Sales Price’,” for more information.

VII. ACCOUNTING METHODS

The accrual method of accounting must be used by all retailers to determine and report their total sales with one exception. The Department of Revenue may, if it is satisfied that an undue hardship would result from using the accrual method, permit some other method such as the cash method of accounting. Before using some other method, written approval must be obtained from the department. Written approval is not required to use the accrual method.

Under the accrual method of accounting, all cash, credit, installment, and conditional sales are included in total sales on the return for the reporting period in which the sale “occurs,” even though all or part of the payments for such sales are not received until a later reporting period. A sale involving the transfer of property is considered to “occur” when possession is transferred by the seller to the purchaser, regardless of when payment is made. A sale of a taxable service is considered to “occur” when the service is sold, furnished, or performed by the seller.

Example: If you are on a monthly reporting period (file monthly returns) and a sale occurs in January, the gross receipts from the sale must be reported on the January return, even though payment is not received until February or a later month.

If a retailer cannot reasonably separate and account for individual sales of taxable property, the Department of

Revenue may authorize the use of a formula method for determining taxable and exempt sales. The retailer must request and receive written approval from the Department of Revenue before using a formula method. The formula must be designed to approximate the correct tax liability. Also, the use of the formula is subject to review and redetermination by the Department of Revenue at a later date.

VIII. FILING RETURNS AND PAYING THE TAX

How Often Must a Return Be Filed?: If you have a seller’s permit, use tax registration certificate, or consumer use tax registration certificate, you must file a return for each “reporting period,” even if no tax is due for that period. Your “reporting period” will be either monthly, quarterly, or annually. For example, if it is monthly, you must file a return for each month of the year, regardless of whether any tax is due for the month.

Generally, your reporting period will be quarterly unless the Department of Revenue notifies you in writing that your returns must be filed monthly or annually.

If you do not file electronically, a return will be mailed to you shortly before the end of each reporting period. If you file your sales and use tax returns on a monthly basis, you will be sent three returns at a time. For example, returns for July, August, and September will be sent to you at the end of July.

Instructions are included with the return explaining how to complete the return.

Exception: If you file your returns monthly, you may receive instructions with the first return you must file. Instructions will not be mailed with subsequent returns unless the instructions are revised as a result of law changes, new counties adopting county tax, etc. Therefore, it is important that you keep a copy of the most recent instructions as part of your records or obtain a copy of Form S-114 on-line at www.dor.state.wi.us/html/taxsales.html.

If you do not receive your return within 15 days after the end of the reporting period, phone the Department of Revenue at (608) 266-2776.

Electronic Filing: Sales Internet Process (SIP) is the Wisconsin Department of Revenue’s secure web based

application that enables you to electronically file sales and use tax returns over the Internet. Your returns can be direct filed on the DOR web site. SIP also gives you the flexibility to make your tax payment by Electronic Funds Transfer (EFT).

In order to use SIP, you must have a state issued logon ID. Applying for your logon ID is easy.

1. Download and print the application form (Form S-002) by using the **APPLY** link at www.salestax.dor.state.wi.us.
2. Complete and mail the SIP application.
3. Receive your logon ID and a one-time use password in the mail.
4. Log onto SIP at www.salestax.dor.state.wi.us.
5. SIP will automatically test your Internet browser for compatibility and will alert you to any needed adjustments.
6. Follow the on-line instructions to complete your sales and use tax returns.

More information can be found in Wisconsin Publication 227, "E-File Sales Tax Returns With SIP."

The department may require you to file your Wisconsin sales and use tax returns electronically using SIP. Registrants notified of the requirement to file electronically have 90 days to make arrangements to begin filing through SIP.

If you are unable to file electronically after being notified of a requirement to do so, you should request a waiver from the Department of Revenue. A waiver will be granted if you cannot file because of some hardship, including:

- No computer
- No Internet access
- Incompatible computer hardware

Your request for a waiver must be **in writing**. The request should indicate the business name, account number, and a reason why sales and use tax returns cannot be filed using SIP. Requests can be mailed to

Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8903, Madison, WI 53708-8903, or e-mailed to efilesales@dor.state.wi.us.

Additional information is available at www.dor.state.wi.us/eserv/rule.html#sales or you may contact the department by mail or e-mail at the address above or by telephone at (608) 261-6261.

Business at More Than One Location: If you are engaged in business at more than one location, even though you hold a separate seller's permit for each location, you must file one consolidated return which includes the information and figures for all of your business locations.

Example: If you operate ten restaurants at ten different locations in Wisconsin, only one return should be filed for each reporting period. That return should include the total gross receipts, deductions, use tax, etc., for all ten restaurants.

Single-Owner Entity Disregarded as Separate Entity: If a single-owner entity is disregarded as a separate entity under sec. 7701 of the Internal Revenue Code, the owner must include the information from the entity on the owner's sales and use tax returns.

Seasonal Retailers: If you are open for business only part of the year, you may be allowed to file returns on a seasonal basis. If you are in this situation and have not yet registered for a seller's permit, the Application for Business Tax Registration (Form BTR-101) you file with the Department of Revenue should indicate the beginning and ending months of your business season. If you are already registered for a seller's permit, you may submit a written request to the Department of Revenue, Mail Stop 5-77, PO Box 8902, Madison, WI 53708-8902, to file on a seasonal basis. This written request should include your Wisconsin seller's permit number, the beginning month of operation, and the closing month of operation. After a review of your account, a letter will be sent to you verifying your filing responsibility.

Note: Seasonal retailers are required to file returns monthly. If you receive approval to file on a seasonal basis, monthly returns will be mailed to you for a full year at the end of the month your season begins. During the months you are open for business, returns must be filed by the due date shown on the returns. If there is no

change in your season, you are not required to file returns covering the periods in which you will not operate. You must notify the department of any change in your months of business operations.

Due Date for Filing: Each return you receive from the Department of Revenue will have printed on it the due date by which the return must be filed. Returns must be filed by the last day of the month following the end of the reporting period. However, if the sales and use tax liability is more than \$3,600 per quarter, returns may be due by the 20th day of the month following the end of the reporting period. Persons required to file by the 20th of the month will receive a written notice from the Department of Revenue indicating their due date for filing returns.

Example: You file returns on a monthly basis and the returns are due by the last day of the month following the end of the reporting period. Your return for the month of January must be filed by February 28. However, if you were notified by the Department of Revenue to file by the 20th of the month because your tax liability is more than \$3,600 per quarter, the January return must be filed by February 20.

A return if mailed is considered filed by the due date if (1) the return is mailed in a properly addressed envelope with the postage duly prepaid (2) the envelope containing the return is postmarked on or before the due date, and (3) the return is received by the department within five days of the due date.

Obtaining an Extension of Time to File: If you cannot file your return by the due date, you should write to the Department of Revenue, Mail Stop 5-77, PO Box 8902, Madison, WI 53708-8902, before the due date of the return and request an extension of time to file. The department may grant you an additional month from the due date of the original return to file the return. However, if the tax is not paid by the original due date, the tax will be subject to 1% interest per month during the extension period. You will not lose the retailer's discount or be subject to a late filing fee if you pay the total tax due within the extension period.

Payment of Tax: The tax may be paid by check, money order, or electronic funds transfer (EFT). Do not use cash or postage stamps.

If you choose to pay by EFT, the payment options available are the Automated Clearing House (ACH) debit and ACH credit.

- **ACH Debit** - The ACH debit method allows you to transfer funds by instructing the state to electronically debit a bank account you control by calling a toll-free telephone number. There is no cost for this type of payment transaction. This option is recommended because of the simplicity and cost savings to you.
- **ACH Credit** - The ACH credit method allows you to transfer funds by instructing your financial institution to debit your account and credit the state's bank account. Financial institutions may charge a fee for making ACH credit payments.

To begin making EFT payments you must first register with the Department of Revenue. To request EFT registration materials you have the following options:

- Fill in the on-line form at <https://prd2p.it.state.wi.us/dor/eserv/eftreg.html>.
- Send your name, address, federal employer identification number, and social security number to the EFT Unit, Wisconsin Department of Revenue, PO Box 8912, Madison WI 53708-8912.
- Call (608) 264-9918.

More information on EFT can be found on-line at www.dor.state.wi.us/eserv/eft1.html.

Retailer's Discount: As partial compensation for collecting, accounting for, and reporting the tax, retailers may take a deduction, which is called the "retailer's discount." The discount is not allowed on any tax paid after the due date (or extended due date) of the sales and use tax return.

The retailer's discount is 0.5% of your sales and use tax payable, with the following exception.

Exception: If multiplying the sales and use tax payable by 0.5% results in \$10 or less, the retailer's discount is the lesser of (1) \$10 or (2) sales and use tax payable.

“Sales and use tax payable” includes the following amounts:

1. The amount of the 5% state (Wisconsin) sales and use tax payable on retail sales.
2. The amount of the 0.5% county sales and use tax payable on retail sales.
3. The amount of the 0.1% or 0.5% stadium sales and use tax payable on retail sales.

Note: The retailer’s discount does not apply to use tax payable on purchases of tangible personal property and taxable services.

Correcting an Error – Underpayments: If you file your return and then later become aware that you made an error on the return by underreporting the tax due, you should file an amended return with the Department of Revenue to correct the error. Form ST-12 should be used as an amended return. Refer to the instructions for Form ST-12 for more information.

Overpayments – Filing Claims for Refund: If you determine that you overpaid Wisconsin sales or use tax to the Department of Revenue or a seller, a claim for refund of the overpaid tax may be filed as explained below. Who may file the claim for refund depends on whether you are a seller or a buyer.

Sellers:

If you overpaid Wisconsin sales or use tax on the sale of tangible personal property or taxable services to a buyer, you may file a claim for refund. It is suggested that you file the refund claim using Form ST-12 as an amended return. Form ST-12 is available from any Department of Revenue office or on-line. In lieu of Form ST-12, you may file a claim for refund in letter form, including your tax account number, the reporting period, and a statement giving the specific reasons for claiming the refund.

Refer to the instructions for Form ST-12 for more information on how to use Form ST-12 as an amended return.

Claims for refund should be sent to Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison, WI 53708-8906.

Caution: If you collected sales or use tax from buyers, you must return to the buyer the tax and interest refunded to you by the Department of Revenue as a result of your claim for refund. If you are unable to return the tax and interest to the buyer, you must return the refund to the Department of Revenue. Failure to return the refund may result in a penalty being imposed.

Buyers:

A buyer may file a claim for refund with the Department of Revenue for sales or use tax paid in error to a seller if the claim for refund is \$50 or more of tax.

If the tax paid in error is less than \$50, a buyer may still file a claim for refund with the department for tax paid in error to a seller if (1) the seller is out-of-business, (2) the buyer is being field audited, or (3) the period covered in the claim for refund is within the statute of limitations for the buyer, but is closed to the seller. If none of these conditions are met by the buyer and the claim for refund is under \$50, the buyer may not file a claim for refund with the department, but may request the seller who paid the tax to the department to file a claim for refund.

A buyer filing a claim for refund with the department for tax paid in error to a seller must use Form S-220, Buyer’s Claim for Refund of Wisconsin State, County, and Stadium Sales Taxes.

Whether you are a seller or a buyer, a claim for refund may generally be filed within four years after the due date of your Wisconsin income or franchise tax return. If you are not required to file a Wisconsin income or franchise tax return, a claim for refund may be filed within four years of the 15th day of the 4th month of the year following the close of the taxable year. However, if you have been audited by the Department of Revenue, different time limits may apply.

For more information on claims for refund, including when a claim must be filed, obtain Publication 216, “Filing Claims for Refund of Sales or Use Tax.”

Failing to File or Pay or Filing Incorrect Returns Is Costly: If you do not file returns or pay the tax by the due date or file incorrect returns, you can be assessed late filing fees, penalties, and interest. In addition, a lien can be filed against your property, your seller’s permit can be revoked, and criminal charges can be filed

against you. Listed below are some of the penalties, interest, and other actions that can take place if you fail to file or pay by the due date or file incorrect returns.

Failure To File Or Pay By The Due Date:

- Negligence penalty of 5% of the tax due for each month (or part of a month) the return is filed after the due date. The maximum negligence penalty for late filing is 25% of the tax due.
- \$20 late filing fee for not filing a return by the due date because of neglect, unless the return was filed late because of the death of the person required to file the return.

The late filing fee was \$10, effective for returns filed for periods beginning before October 1, 1999.

- Interest of 18% per year on any unpaid taxes that are delinquent.
- Retailer's discount is not allowed if taxes are paid after the due date or extended due date.
- A lien is filed against your property. This lien is filed with the county clerk of court and is a public record. After the lien is filed, your property cannot be sold without the delinquent taxes, interest, penalties, and fees being paid to the Department of Revenue.
- Seller's permit may be revoked if you fail to file returns or pay taxes by the due date. Criminal charges may be brought against a person who operates without a seller's permit or after a permit is revoked.
- Estimated assessment may be issued which includes penalty of 25% of estimated tax.

Filing Incorrect Returns Or Claims For Refund:

- Negligence penalty of 25% of the additional taxes due if there is negligence in filing the return.
- Negligence penalty of 25% of the difference between the amount of a refund claimed and the amount that should have been claimed if there is negligence in filing a claim for refund.
- Fraud penalty of 100% of the difference between the amount of a refund claimed and the amount that should have been claimed if there is fraud in filing a claim for refund.

- Fraud penalty of 50% of the additional taxes due if there was intent to defeat or evade the taxes in filing the return.
- Negligence penalty of 50% of tax finally determined if, due to neglect, an incorrect return is filed to report the purchase of a motor vehicle, boat, snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer, all-terrain vehicle, or aircraft.

Criminal Charges:

In addition to the civil penalties and other actions described above, criminal charges may be brought against a person for the following violations:

- Failing or refusing to furnish a sales and use tax return or data required by the Department of Revenue.
- Filing a false or fraudulent sales and use tax return or failing to file by the due date with the intent to defeat or evade the tax.
- Aiding, abetting, or assisting another person in filing or making a false or fraudulent sales and use tax return with intent to defeat or evade the tax.
- Refusing or failing to keep records, receipts, invoices, or other documents in such form as the Department of Revenue requires.
- Giving a resale certificate or other exemption certificate to the seller when the purchaser knows at the time of purchase that the item is not to be resold or the property is not exempt and such resale certificate or exemption certificate is given for the purpose of evading payment of the tax to the seller.
- Operating as a seller of taxable property or services without a permit or after a permit has been suspended or revoked.
- Advertising or holding out to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the selling price or, if added, will be refunded.
- Intentionally failing or refusing to pay state and county sales and use tax money collected from a consumer, user, or purchaser to the Department of Revenue by the due date for payment, or fraudulently withholding, appropriating, or using these tax

moneys, regardless of the person's interest in the tax moneys. Payments to creditors in preference to payment of the tax moneys to the Department of Revenue by any person is prima facie evidence of an intent to fraudulently use these tax moneys.

Other:

A person required to collect, account for, or pay sales or use taxes, who willfully fails to collect, account for, or pay those taxes to the Department of Revenue, is personally liable for such taxes, including interest and penalties, if that person's principal is unable to pay such amounts to the department.

IX. RECORD KEEPING

General Records to Keep: If you are required to file sales and use tax returns or consumer use tax returns, you must keep adequate records of business transactions to enable you and the Department of Revenue to determine the correct tax due. The required records include complete and accurate records of beginning and ending inventories, purchases, sales, canceled checks, receipts, invoices, bills of lading, and all other documents and books of account pertaining to the business.

See sec. Tax 11.92, Wis. Adm. Code, "Records and record keeping," on page 52 for more information.

If you make retail sales and at the same time are engaged in some other nontaxable business, occupation, or profession, you must keep records to show separately the transactions used in determining the sales and use tax due. If separate records are not kept, the tax may be imposed upon the total receipts from all of your business operations.

Records to Keep – Exempt Sales, Exemption Certificates: If you claim that part or all of your retail sales of tangible personal property or taxable services are exempt from sales and use tax, you are required to keep a record of the name and address of the person to whom the exempt sale was made, the date of sale, the article sold, the amount of exemption, and the reason that the sale was exempt from tax. This record must be signed by the purchaser.

Exceptions: This information is not required for:

- Sales, as described in Part XI.B. on page 20.

- Sales of commodities, as defined in 7 U.S.C. §2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to rules of a commodity market regulated by the U.S. Commodity Futures Trading Commission if upon the sale the commodity is not removed from the warehouse.
- Sales of cattle, sheep, goats, and pigs that are sold at a livestock market, as defined in sec. 95.68(1)(e), Wis. Stats. Section 95.68(1)(e), Wis. Stats., defines livestock market as any premises which are open to the public for the purpose of trading in livestock and on which facilities are maintained for their yarding, feeding and watering prior to sale.

The reason for keeping such records is that the sales and use tax law provides that all gross receipts are taxable until the contrary is established. The seller has the burden of proving that a sale of tangible personal property or taxable services is exempt, unless the seller takes a certificate (or other information as described in number 3 below) in an approved form in "good faith" from the purchaser which indicates that the property or service being purchased is for resale or is otherwise exempt.

A seller or lessor who accepts in "good faith" an exemption certificate which discloses a proper basis for exemption is relieved of any liability for payment of tax upon transactions covered by the certificate. The seller or lessor should be familiar with the instructions contained in the certificate.

In order for "good faith" to be established, the following conditions must be met:

- The certificate must contain no statement or entry which the seller or lessor knows, or has reason to believe, is false or misleading.
- The certificate must be properly executed and contain all the necessary information.

If a retailer regularly sells the same kind of item to the same customer, a certificate known as a "continuous certificate," which is good indefinitely, may also be used for future transactions.

Three common reasons that sales of tangible personal property or taxable services may be exempt are as follows:

1. The use to be made of the item purchased is exempt or the item is to be resold. For example, the machine is going to be used exclusively and directly in manufacturing or the tractor is going to be used exclusively and directly in farming and is, therefore, exempt.

The seller should obtain a completed exemption certificate (Form S-211) from the purchaser.

2. The purchasing organization is exempt (e.g., Wisconsin public schools and municipalities, federal government).

Sales to the federal and Wisconsin governments, municipalities, and public schools should be supported by one of the following:

- a. A purchase order or similar written document identifying the governmental unit as the purchaser.
- b. An exemption certificate (Form S-211).
- c. Recording the federal or Wisconsin governmental unit's Certificate of Exempt Status (CES) number on the invoice.

Exempt sales to nonprofit organizations holding a Certificate of Exempt Status (e.g., church) can be supported by an exemption certificate (Form S-211) or by recording the CES number on the invoice.

Nonprofit organizations organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, may apply on Form S-103 (Application for Certificate of Exempt Status) to the Department of Revenue for a Certificate of Exempt Status and, if approved, will be issued a CES number by the department.

3. The purchaser furnishes the seller (a) a copy of its direct pay permit or (b) a statement that the buyer holds a direct pay permit, the permit number, and the date the permit was issued. See Part XVII on page 39 for more information on direct pay.

Note: If exemptions are claimed for any of the above three reasons, you must keep as part of your records the completed certificates, purchase orders, or invoices to

prove that the sales are exempt. If the Department of Revenue conducts an audit of your records, and you do not have the required exemption certificates or other required documents to prove that the sales are exempt, the sales will be presumed to be taxable and subject to the sales tax.

See sec. Tax 11.14, Wis. Adm. Code, "Exemption certificates" on page 54 for more information about certificates.

X. WHAT'S TAXABLE

A retailer's gross receipts from the sale, lease, or rental of tangible personal property or the sale, performance, or furnishing of taxable services are subject to Wisconsin sales tax. The storage, use, or other consumption in Wisconsin of tangible personal property or taxable services (based on the sales price) is subject to Wisconsin sales or use tax, unless Wisconsin sales tax was paid by the buyer when purchasing the property or service.

No sales or use tax is payable on a sale or purchase of property or service if an exemption applies.

Refer to Part XI for more information on exemptions.

A description of the types of personal property and services which are subject to the sales or use tax follows:

A. Tangible Personal Property

All tangible *personal* property is subject to Wisconsin sales or use tax, unless an exemption applies to the property (e.g., prescribed medicines) or to the seller or buyer (e.g., certain nonprofit organizations or governmental agencies).

B. Services

Only certain specified services which are sold, performed, or furnished at retail in Wisconsin are subject to Wisconsin sales or use tax, unless the service provider or the buyer is exempt from tax on the particular transaction. Gross receipts from the sale, performance, or furnishing of the following services are taxable, including any charges for tangible personal property transferred in conjunction with the service:

1. Admissions and Access Privileges

- Admissions to amusement, athletic, entertainment, or recreational events or places, such as admissions to movies, plays, ballets, musical and dance performances, fairs, ball games, campgrounds, circuses, carnivals, hockey games, ice shows, races, festivals, and other spectator events.

Exception: Admissions to county fairs are not subject to Wisconsin sales or use tax.

- The privilege of access to or the use of amusement, entertainment, athletic, or recreational facilities for dues, fees, or other considerations, such as charges by country clubs, golf clubs, athletic clubs, swimming clubs, yachting clubs, tennis clubs, and flying clubs, or charges for the use of gymnasiums, auditoriums, theaters, and other facilities to be used for entertainment, amusement, athletic, or recreational purposes.

Exceptions:

- The sale or furnishing of the use of recreational facilities on a periodic basis or other recreational rights, including but not limited to membership rights, vacation services, and club memberships, in connection with the sale or use of time-share property is not subject to tax (effective December 1, 1999).
- Charges for lessons or classes of study are not subject to Wisconsin sales or use tax.
- Sales of a one-time license or similar right to purchase admissions to professional football games at a football stadium, as defined in sec. 229.821(6), Wis. Stats., with the following conditions:
 - The license or right to purchase must be granted by a municipality, a local professional football stadium district, or a professional football team or related party, as

defined in sec. 229.821(12), Wis. Stats.

- The person who purchases the license or right must be entitled, at the time of license or right transfer, to purchase admission to at least three professional football games in Wisconsin during one football season.

- Admissions to customer participation events, such as swimming, skiing, bowling, skating, golfing, curling, dancing, and horseback riding.
- The privilege of access to or the use of recreational facilities provided in connection with the sale of a vacation time-share.
- Sales of bingo cards of all kinds to players, including admission charges. Bingo event sponsors are required to report and pay the sales tax directly to the Department of Revenue.

Refer to sec. Tax 11.54, Wis. Adm. Code, “Temporary amusement, entertainment or recreational events or places,” and sec. Tax 11.65, Wis. Adm. Code, “Admissions,” for more information.

2. Amusement Devices

The privilege of access to or the use of jukeboxes, pinball machines, arcades, mechanical rides, and mechanical games. Payments (i.e., commissions) by vending machine owners or operators to the owner or operator of the establishment in which a machine is placed do not reduce taxable sales.

Refer to sec. Tax 11.52, Wis. Adm. Code, “Coin-operated vending machines and amusement devices,” for more information.

3. Cable Television

Cable television system services provided to customers located in Wisconsin, including installation charges.

Refer to sec. Tax 11.66, Wis. Adm. Code, "Telecommunication and CATV services," for more information.

4. Landscaping and Lawn Maintenance

Landscaping and lawn maintenance services, including landscape planning and counseling, lawn and garden services such as planting, mowing, spraying, and fertilizing and shrub and tree services.

Refer to Wisconsin Publication 210, "Sales and Use Tax Treatment of Landscaping," for more information.

5. Laundry and Dry Cleaning

Laundry, dry cleaning, pressing, and dyeing services and the rental of linens, uniforms, and towels.

Note: This type of service performed on cloth diapers by a diaper service, raw materials or goods in process destined for sale, and receipts from coin-operated laundry and dry cleaning units when the service is performed by the customer are not taxable.

Refer to sec. Tax 11.72, Wis. Adm. Code, "Laundries, dry cleaners, and linen and clothing suppliers," for more information.

6. Parking

- Providing parking space for motor vehicles and aircraft.

Refer to sec. Tax 11.49, "Service stations and fuel oil dealers," and sec. Tax 11.84, Wis. Adm. Code, "Aircraft," for more information.

- Providing docking or storage space for boats.

Refer to sec. Tax 11.48, Wis. Adm. Code, "Landlords, hotels and motels," and sec. Tax 11.85, Wis. Adm. Code, "Boats, vessels and barges," for more information.

7. Photographic

- Photographic services, including the processing, printing, and enlarging of film.
- Services of photographers for the taking, reproducing, and sale of photographs, including those sold to students through schools.
- Videotaping services.

Refer to sec. Tax 11.47, Wis. Adm. Code, "Commercial photographers and photographic services," for more information.

8. Producing, Fabricating, and Printing

The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish directly or indirectly the materials used in producing, fabricating, processing, printing, or imprinting. For example, the making of a custom tailored suit for a customer who furnished the material is taxable.

Refer to sec. Tax 11.38, Wis. Adm. Code, "Fabricating and processing," and sec. Tax 11.56, Wis. Adm. Code, "Printing industry," for more information.

9. Repair and Service of Tangible Personal Property

The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property. Mileage and transportation charges associated with these taxable repairs and services are also taxable.

The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of the following items are deemed to retain their character as tangible personal property, regardless of whether the repair, service, alteration, etc., of the item is an addition to or a capital improvement of real property.

The original installation or the complete replacement of an item listed below continues to be nontaxable if such installation or replacement is a real property construction activity under sec. 77.51(2), Wis. Stats.

air conditioners	compressors
awnings	condensing units
bar equipment	evaporative condensers
bathroom fixtures	fans
blinds	ice and milk dispensers
boilers	lamps
burglar alarm and fire alarm fixtures	office and business machines
carpeting and rugs	pneumatic conveying systems
clothes dryers	soda fountains
clothes washers	steam warmers and tables
coolers	vending machines
dehumidifiers	venetian blinds
dishwashers	freezers
electric clocks	furnaces
electronic dust collectors	furniture and furnishings
electric signs	intercoms
equipment in offices, business facilities, schools, and hospitals, but not in residential facilities including personal residences, apartments, long-term care facilities as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., or similar facilities including by way of illustration but not of limitation:	jukeboxes
beverage making equipment	garbage disposal units
canvas awnings	gas and electric logs
	grills and rotisseries
	heat lamps
	heaters
	humidifiers
	incinerators
	laundry, dry cleaning, and pressing machines
	ovens (including associated hoods and exhaust systems)
	power tools
	radios and radio antennas
	record players

recreational, sporting, gymnasium, and athletic goods and equipment including by way of illustration but not of limitation:

bowling alleys	refrigerators
golf practice equipment	sinks
pool tables	stoves
punching bags	tape players
ski tows	television receivers and antennas
swimming pools	vacuum cleaners
	water conditioners and softeners
	water heaters
	water pumps

Refer to sec. Tax 11.68, Wis. Adm. Code, "Construction contractors," and Part XII of this publication for more information.

10. Rooms and Lodgings for Less Than One Month

Furnishing of rooms or lodging to a person for a continuous period of less than one month by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public, regardless of whether membership is required for use of the accommodations.

"One month" means a calendar month or 30 days, whichever is less, counting the first day of the rental, but not counting the last day of the rental.

"Hotel" or "motel" includes inns, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges, and cabins.

Exceptions:

- Prior to December 1, 1999, furnishing of rooms or lodging through the sale of a time-share property, if the use of the rooms or lodging was not fixed at the time of sale as to the starting day or the lodging unit, was subject to Wisconsin sales or use tax.
- The furnishing of accommodations by hospitals, sanatoriums, nursing homes, and corporations or associations organized or operated exclusively for religious, charitable, or educational purposes, such as public

schools, colleges, and universities, for any period of time is not taxable.

Refer to sec. Tax 11.46, Wis. Adm. Code, “Summer camps,” sec. Tax 11.48, Wis. Adm. Code, “Landlords, hotels and motels,” and Publication 219, “Hotels, Motels and Other Lodging Providers,” for more information.

11. Telecommunications Services

- Sales of telecommunication services when the service originates or terminates in Wisconsin and is charged to a service address in Wisconsin.

Exceptions:

- Telecommunications services that are (a) obtained by means of a toll-free number, (b) originate outside Wisconsin, and (c) terminate in Wisconsin are not taxable.
- Sales of mobile telecommunications services are subject to Wisconsin sales or use tax if the customer’s place of primary use is in Wisconsin (effective for customer bills issued after August 1, 2002). See *Wisconsin Tax Bulletin 131* (August 2002), pages 5-7, for more information.

“Telecommunication services” means sending messages and information transmitted through use of local, toll, and wide-area telephone service; channel service; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two-way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

- The sale of rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and using an access number and

authorization code (e.g., prepaid telephone calling cards or prepaid authorization numbers) is subject to Wisconsin sales or use tax.

The situs of the sale of the rights to purchase telecommunications services is as follows:

- If the sale takes place at a retailer’s place of business, the situs of the sale is that place of business.
- If the sale does not take place at a retailer’s place of business and an item that will implement the right to purchase telecommunications services (e.g., calling card) is shipped, the situs of the sale is the customer’s shipping address.
- If the sale does not take place at a retailer’s place of business and no item that will implement the right to purchase telecommunications services is shipped, the situs of the sale is the customer’s billing address.

Note: Receipts from “911” services are not taxable.

Refer to sec. Tax 11.66, Wis. Adm. Code, “Telecommunication and CATV services,” for more information.

12. Telecommunications Message Services

Sales of telecommunications message services that consist of recording telecommunications messages and transmitting them to the purchaser or at that purchaser’s direction, unless those services are an incidental element of a nontaxable service sold to that purchaser.

In addition to voice mail services and telephone answering services, telecommunications messaging services include security monitoring services that involve equipment at a customer’s location forwarding a message of intrusion to the retailer which the retailer records and forwards to the customer or someone designated by the customer (e.g., police department).

The situs of the sale is the location where the retailer of the service delivers the message to the customer or someone designated by the customer.

“Incidental” is defined on page 29 of this publication.

13. Transportation Charges

When a retailer sells tangible personal property or taxable services which are subject to tax and the retailer charges the purchaser for the delivery, the retailer’s total charge, including the transportation charge, is taxable. It is immaterial whether delivery is made by the seller’s vehicle, a common or contract carrier, or the United States Postal Service.

The correct state tax computation to be shown on an invoice when the retailer charges the purchaser for delivery of the tangible personal property is shown in the following example:

Merchandise	\$ 100.00
Delivery Charge	<u>10.00</u>
Subtotal	\$ 110.00
Tax (\$110 x 5%)	<u>5.50</u>
Total	<u>\$ 115.50</u>

A Wisconsin consumer who purchases taxable property or taxable services for use in Wisconsin without tax is subject to the sales or use tax based on the “sales price.” The “sales price” includes transportation charges paid by the Wisconsin consumer to the supplier for shipment of the property or service. The “sales price” does not include transportation charges paid by the Wisconsin consumer to the carrier when the consumer arranged for the transportation.

Refer to sec. Tax 11.94, Wis. Adm. Code, “Wisconsin sales and taxable transportation charges,” for more information.

XI. WHAT’S EXEMPT

A. General

Since all tangible personal property and only some services are subject to the Wisconsin sales or use tax, the exemptions for such property and taxable services generally depend upon:

1. How the property is used or other specific criteria. (Refer to Parts B and C, “Exemptions Based on Use or Other Criteria,” that follow.)
2. Whether the buyer or seller is exempt from the tax. (Refer to Part D, “Exempt Organizations.”)

Normally, to purchase taxable property or services in Wisconsin without tax, an exemption certificate must be given to the seller as described in Part IX. However, for retail sales of certain property (for example, food for human consumption sold by grocery stores), the taxable use is so rare or unlikely that exemption is presumed and certificates are not required to be given to the seller.

B. Exemptions Based on Use or Other Criteria (Certificates Not Required)

Retail sales of the following property may be made without sales tax, even though an exemption certificate is not received by the seller. However, if the property is not used for the exempt purpose, the purchaser must pay a use tax on the property’s sales price.

1. Caskets and Burial Vaults

Caskets and burial vaults sold for use in burying human remains. Caskets and burial vaults for animals are taxable.

2. Food Products

- Food, food products, and beverages for human consumption sold for consumption off the premises of the seller.

The following are examples of food, food products, and beverages that do not qualify for this exemption:

- Medicines, tonics, vitamins, and medicinal preparations in any form
- Fermented malt beverages (e.g., beer) and intoxicating liquors
- Soda water beverages, soft drinks, fruit drinks, and ades that are not fruit juices
- Meals and sandwiches
- Heated food and heated beverages
- Soda fountain items such as sundaes, milk shakes, malts, ice cream cones, and sodas
- Candy, chewing gum, lozenges, popcorn, and confections
- Food for animals
- Food used in research and experimentation

If a combination of food, food products, and beverages are packaged together with other goods by a person other than a retailer before sale to the final consumer, and 50% or more of the sales price of the package is attributable to goods that are exempt from Wisconsin sales or use tax, the total selling price of the combined package is exempt from Wisconsin sales or use tax. If less than 50% of the sales price is attributable to goods that are exempt from Wisconsin sales or use tax, that portion of the selling price attributable to the taxable items is subject to Wisconsin sales or use tax.

Refer to sec. Tax 11.51, Wis. Adm. Code, "Grocers' guidelist," and Publication 220, "Grocers - How Do Wisconsin Sales and Use Taxes Affect Your Operations," for more information.

- The following food, food products, and beverages (1) purchased by restaurants, who give them to employees during their work hours, and (2) sold by restaurants to employees during their work hours are exempt from Wisconsin sales or use tax (effective December 1, 1999):

- Soda water beverages as defined in sec. 97.29(1)(i), Wis. Stats., bases, concentrates, and powders intended to be reconstituted by consumers to produce soft drinks, and fruit drinks and ades not defined as fruit juices in sec. 97.02(27), 1967 Wis. Stats.
- Meals and sandwiches, whether heated or not
- Heated food and heated beverages
- Soda fountain items such as sundaes, milk shakes, malts, ice cream cones, and sodas
- Candy, chewing gum, lozenges, popcorn, and confections
- Disposable products that are transferred with the above items, such as paper cups, napkins, straws, etc.

Example: Restaurant A purchases soda water beverages without sales tax to sell to customers. A portion of the soda water beverages are not sold. Instead, they are consumed by employees during their work hours. Effective December 1, 1999, Restaurant A is exempt from Wisconsin sales or use tax on the portion of soda water beverages consumed by employees during their work hours.

Caution: This exemption does not apply to the above items consumed by employees of grocery stores, convenience stores, and other businesses that do not operate restaurants.

- Sales of meals, food, food products, and beverages, as defined in sec. 77.54(20)(a) and (b), Wis. Stats., sold by hospitals, sanatoriums, nursing homes, retirement homes, community-based residential facilities as defined in sec. 50.01(1g), Wis. Stats., and day care centers registered under Chapter 48, Wis. Stats., and served at the hospital, sanatorium, nursing home, retirement home, community-based residential facility, and day care center are exempt. Also exempt are "mobile meals on wheels" sold to the elderly and handicapped.

Note: This exemption does not apply to soda water beverages, fermented malt beverages, and intoxicating liquor not sold as part of a meal. Such sales are subject to tax.

Refer to sec. Tax 11.87, Wis. Adm. Code, “Meals, food, food products and beverages.”

3. Fuel and Electricity

- Fuel oil, propane, coal, steam, peat, fuel cubes produced from solid waste, or wood used for fuel which is sold for residential use. “Residential use” means use in a structure which is a person’s permanent principal residence.
- Wood residue that is used as a fuel in a business activity and that results from the harvesting of timber or the production of wood products, including slash, sawdust, shavings, edgings, slabs, leaves, wood chips, and bark. Also, wood pellets manufactured primarily from wood or wood residue and used as a fuel in a business activity are exempt.
- Electricity and natural gas sold for residential use during the months of November through April.
- Electricity sold for use in farming, including agriculture, dairy farming, floriculture, and horticulture.

Note: Prior to May 1, 2000, electricity sold for use in farming was exempt from tax only if sold during the months of November through April.

- Fuel sold for use in farming, including agriculture, dairy farming, floriculture, and horticulture.

Note: If fuel or electricity sold to a consumer is for both exempt and non-exempt use, the seller must obtain an exemption certificate to substantiate the exempt sales.

4. Medicines and Medical Equipment

- Medicines prescribed for the treatment of human beings by medical care providers

who are authorized by law to prescribe medicines. Insulin furnished by a registered pharmacist for treatment of diabetes, as directed by a physician, is considered to be dispensed on prescription.

Refer to sec. Tax 11.09, Wis. Adm. Code, “Medicines,” and sec. Tax 11.45, Wis. Adm. Code, “Sales by pharmacies and drug stores,” for more information.

- Artificial devices, including parts and accessories, individually designed, constructed, or altered solely for the use of a physically disabled person so as to become a brace, support, supplement, correction, or substitute for a bodily structure.
- Artificial limbs and eyes, hearing aids, artificial teeth, and prescription eye glasses.

Refer to sec. Tax 11.17, Wis. Adm. Code, “Hospitals, clinics and medical professions,” and sec. Tax 11.18, Wis. Adm. Code, “Dentists and their suppliers,” for more information.

- Equipment used to administer oxygen for medical purposes.
- Crutches and wheelchairs, including motorized wheelchairs and scooters used by disabled persons and their parts and accessories.
- Antiembolism elastic hose and stockings that are prescribed by a physician and sold to the ultimate consumer.
- Adaptive equipment that makes it possible for handicapped persons to enter, operate, or leave a vehicle if that equipment is purchased by the individual who will use it, a person acting directly on behalf of that individual, or a nonprofit organization.
- Medicines furnished without charge to a physician, surgeon, nurse anesthetist, advanced practice nurse, osteopath, dentist who is licensed under ch. 447, Wis. Stats., podiatrist who is licensed under ch. 448, Wis. Stats., or optometrist who is licensed under ch. 449, Wis. Stats., if the medicine

may not be dispensed without a prescription.

5. Motor Vehicle and Alternate Fuel

Motor vehicle fuel (gasoline and diesel), alternate fuel (CNG and LPG), or general aviation fuel which is subject to the excise tax under ch. 78, Wis. Stats., except when the excise tax paid under ch. 78, Wis. Stats., is later refunded to the vendor, or to a buyer under sec. 78.75, Wis. Stats., because the buyer does not use the fuel in operating a motor vehicle upon public highways.

6. Printed Publications (More information on printed publications is contained in sec. Tax 11.19, Wis. Adm. Code, "Printed material exemptions.")

- Newspapers.
- Periodicals, if sold by subscription and regularly issued at average intervals not exceeding three months.

Note: All over-the-counter sales of periodicals not made by subscription are taxable.

- Periodicals sold by subscription issued at average intervals not exceeding six months if the seller is an educational association or corporation, as described in Part XI.D.1, that is exempt from sales or use tax on its purchases.
- Shoppers guides which distribute no less than 48 issues in a 12-month period.
- Controlled circulation publications sold to commercial publishers for distribution without charge.

7. Occasional Sales

- Sales of personal property or taxable services by persons who do not hold or are not required to hold a seller's permit.

Refer to Part XVI of this publication and to sec. Tax 11.33, Wis. Adm. Code, "Occasional sales," for more information.

- Sales to the seller's spouse, parent, stepparent, father-in-law, mother-in-law, child, stepchild, daughter-in-law, or son-in-law of motor vehicles, boats, snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semi-trailers, all-terrain vehicles, or aircraft, but such sales are exempt only if the seller is not engaged in the business of selling this type of property and if the property has been previously registered or titled in Wisconsin, or in the case of boats, registered or titled under the laws of Wisconsin or the United States, in the name of the seller.

8. Water Delivered Through Mains

Utilities, governmental agencies, and others delivering water to consumers through mains.

Note: Sales of carbonated or flavored bottled water are taxable.

9. Mobile Homes

- 35% of the total amount for which a new mobile home that is a primary housing unit, as defined under sec. 340.01(29), Wis. Stats., or that is transported in two unattached sections if the total size of the combined sections, not including additions and attachments, is at least 984 square feet measured when the sections are ready for transportation, is sold.

No credit is allowed for trade-ins.

This 35% exemption *only* applies to sales, not to leases and rentals.

- The full amount for which a used mobile home, which is a primary housing unit as defined under sec. 340.01(29), Wis. Stats., is sold.

10. Manufactured Buildings

For a “manufactured building,” as defined in sec. 101.71(6), Wis. Stats. (see definition below), that is tangible personal property when sold, one of the following:

Option A: 35% of the sales price.

Option B: An amount equal to the sales price minus the cost of the materials that become an ingredient or component part of the manufactured building.

No credit is allowed for trade-ins.

Note: Once a retailer chooses Option A or Option B, the retailer must continue to use that option for all subsequent sales of manufactured buildings, that are tangible personal property when sold, until such time as the Department of Revenue approves in writing the use of the other option.

“Manufactured building” under sec. 101.71(6), Wis. Stats., means any structure or component thereof which is intended for use as a dwelling and:

- a. is of closed construction and fabricated or assembled on-site or off-site in manufacturing facilities for installation, connection, or assembly and installation, at the building site; or
- b. is a building of open construction which is made or assembled in manufacturing facilities away from the building site for installation, connection, or assembly and installation on the building site and for which certification is sought by the manufacturer.

“Manufactured building” does not mean a manufactured home or mobile home under sec. 101.91, Wis. Stats., or any building of open construction which is not subject to b. above.

11. Cloth Diapers and Diaper Services

Laundry, dry cleaning, pressing, and dyeing services performed on cloth diapers by a diaper

service. Also, the sale, lease, or rental and the storage, use, or other consumption of cloth diapers.

“Cloth diaper” means a cloth diaper used for sanitary purposes.

“Diaper service” means a business primarily engaged in the lease or rental, delivery, and laundering of cloth diapers.

12. Copies of Certain Records

Copies of a public record that a person may examine and use under sec. 16.61(12), Wis. Stats., and copies of records under sec. 19.35(1)(a), Wis. Stats.

13. Animal Identification Tags

Sales of animal identification tags by the Wisconsin Department of Agriculture, Trade, and Consumer Protection to persons required or authorized to use those identification tags.

14. Standard Samples

Sales of standard samples representing product or commodity grades by the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

15. Public Benefit Fees

Gross receipts from the collection of public benefit fees that are charged under sec. 16.957(4)(a) or (5)(a), Wis. Stats. (effective October 29, 1999).

16. United States and Wisconsin Flags (effective October 1, 2001).

- The United States flag or the Wisconsin state flag. A flag, for purposes of this exemption, is considered to include the staff to which the flag is permanently mounted when sold by the retailer.

Example: Retailer A sells hand-held U.S. flags permanently mounted with staples to a wood or plastic staff. The sale of the flag (i.e., the fabric and staff to which the fabric

is mounted) is exempt from Wisconsin sales or use tax.

- A “flag kit,” sold as a single unit, which includes a United States flag or Wisconsin state flag and related accessories, such as a mounting bracket, a flagpole, a cord, and instructions on the display of the flag. A “flag kit” does not include flag-related accessories that are available for sale individually, even if such items are sold in a single transaction along with a U.S. flag or Wisconsin state flag.

Example: Retailer B sells an 8-foot sectional “flag kit” consisting of a two-piece pole with an eagle affixed to the top, a cord, an attaching bracket and screws, and a U.S. flag, all enclosed in a package with a single Universal Product Code (UPC). The sale of the “flag kit” is exempt from Wisconsin sales and use tax.

This exemption does **not** apply to:

- Any accessories, when not sold as a part of a “flag kit” containing a United States flag or Wisconsin State flag.

Example: Retailer C sells an 8-foot sectional flagpole. The sale of the flagpole is not exempt from Wisconsin sales or use tax under sec. 77.54(46), Wis. Stats.

Example: Retailer D sells 40-foot sectional flagpoles, hardware for flags, U.S. flags, and Wisconsin state flags. All are for sale individually. The sale of the flagpoles and hardware are taxable, even if Retailer D sells these items in a single transaction along with the sale of a U.S. flag or a Wisconsin state flag.

- A representation of the United States flag or Wisconsin state flag (e.g., stickers, magnets, lapel pins, photographs, and clothing).

C. Exemptions Based on Use or Other Criteria (Certificate Required)

A seller will be subject to sales tax on gross receipts from the sale of the following property unless exemption certificates are received in good faith from the purchaser:

1. Carriers of Property or Passengers

- Buses, motor trucks, truck tractors, road tractors, trailers, and semitrailers (and accessories, attachments, supplies, parts, and repair services therefor) sold to persons who use the vehicles *exclusively* as common or contract carriers.

Refer to sec. Tax 11.16, Wis. Adm. Code, “Common or contract carriers.”

- Railway rolling stock used in railroad operations and accessories, attachments, parts, and fuel for the railway rolling stock.

Refer to sec. Tax 11.16, Wis. Adm. Code.

- Commercial vessels and barges of 50-ton burden or over *primarily* engaged in interstate commerce or commercial fishing.

Refer to sec. Tax 11.16, Wis. Adm. Code, and sec. Tax 11.85, Wis. Adm. Code, “Boats, vessels and barges.”

- Aircraft, and accessories, attachments, fuel, and parts for aircraft, sold to persons who use the aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce.

Refer to sec. Tax 11.84, Wis. Adm. Code, “Aircraft.”

- All types of tangible personal property sold to a common or contract carrier and shipped by the seller via the purchasing carrier under a bill of lading to a point outside Wisconsin for use outside Wisconsin by the carrier in the conduct of its business.

2. Farmers

Tangible personal property described below sold to persons engaged in “farming.” Farming includes agriculture, horticulture, or floriculture when engaged in as a business enterprise.

Refer to sec. Tax 11.12, Wis. Adm. Code, “Farming, agriculture, horticulture and floriculture,” and Publication 221, “Farmers and Farm Suppliers,” for more information.

- Tractors and machines, including accessories, attachments, and parts therefor, used exclusively and directly in the business of farming.

This exemption does not include:

- a. Automobiles, trucks, and other motor vehicles for highway use,
- b. Personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement of real property, or
- c. Tangible personal property used or consumed in the erection of buildings or in the alteration, repair, or improvement of real property, regardless of any contribution that the personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine.

For purposes of this sales and use tax exemption, the following items retain their character as tangible personal property, regardless of the extent to which they are fastened to, connected to, or built into real property:

- a. Auxiliary power generators
- b. Bale loaders
- c. Barn cleaners and elevators
- d. Conveyors
- e. Feed elevators and augers

- f. Grain dryers and grinders
- g. Milk coolers
- h. Milking machines; including piping, pipeline washers, and compressors
- i. Powered feeders, but not including platforms or troughs constructed from ordinary building materials
- j. Silo unloaders (top and bottom)

For purposes of this sales and use tax exemption, the following definitions apply.

“Building” means any structure that is intended to be a permanent accession to real property; that is designed or used for sheltering people, animals, or plants, for storing property or for working, office, parking, sales, or display space, regardless of any contribution that the structure makes to the production process in it; that in physical appearance is annexed to that real property; that, except for a few structures, is covered by a roof or encloses space; that is not readily moved or disassembled; and that is commonly known to be a building because of its appearance and because of the materials of which it is constructed.

“Machine” means an assemblage of parts that transmits force, motion, and energy from one part to another in a predetermined manner.

“Used exclusively” means used to the exclusion of all other uses except for other uses not exceeding 5% of total use.

Note: Examples of items which are not exempt are hand tools, fencing, construction materials, lawn mowers, oil, grease, anti-freeze, and motor vehicles for highway use.

- Milkhouse supplies, animal bedding, and farm livestock medicine.
- The following property used exclusively in farming: seeds for planting, plants, feed, fertilizer, soil conditioners, sprays, pesticides, fungicides, baling twine and baling wire, breeding and other livestock, poultry,

farm work stock, containers for fruits, vegetables, grain, hay, silage, and animal wastes, and plastic bags, plastic sleeves, and plastic sheeting used to store and cover hay or silage.

Note: Exempt pesticides are only those which are registered with the U.S. Environmental Protection Agency. Each container shows an EPA pesticide registration number.

- Electricity and fuel used in farming.

See Part XI.B.3.

3. Fire Fighting Equipment

Fire trucks and fire fighting equipment including accessories, attachments, parts, and supplies for the trucks and equipment sold to a volunteer fire department.

4. Heavy Logging Equipment

Off-highway heavy mechanical equipment such as feller bunchers, slashers, delimbers, chippers, hydraulic loaders, loaders, skidder-forwarders, skidders, timber wagons, and tractors used *exclusively* and *directly* in the harvesting or processing of raw timber products in the field by a person in the logging business. "Heavy mechanical equipment" does not include hand tools such as axes, chains, chain saws, and wedges.

5. Insulin and Diabetes Apparatus

- Apparatus or equipment for the injection of insulin sold to the ultimate consumer.
- Apparatus or equipment for the treatment of diabetes and supplies used to determine blood sugar level sold to the ultimate consumer.

6. Manufacturing Machinery, Equipment, and Materials

- Machines and specific processing equipment and repair parts or replacements and safety attachments for such machines and equipment which are *exclusively* and *di-*

rectly used by a manufacturer in manufacturing tangible personal property.

- Tangible personal property (other than fuel or electricity) which becomes an ingredient or component part of an article of tangible personal property or which is consumed, destroyed, or loses its identity in the manufacture of tangible personal property in any form destined for sale.

Sales of tangible personal property (e.g., paper) or services (e.g., printing) that become an ingredient or component of, or that are consumed or lose their identity in, the manufacture of shoppers guides, newspapers, or periodicals. The exemption applies whether the shoppers guides, newspapers, or periodicals are sold or transferred without charge to the recipient.

Refer to Part XIV for additional information about manufacturers and the exemptions for persons engaged in manufacturing.

7. Maple Syrup Equipment

Equipment sold for use in the production of maple syrup.

8. Motion Pictures

Motion picture film or tape, and advertising material related to such film or tape, which are sold, leased, or rented to a motion picture theater or to a radio or television station.

9. Packaging and Shipping Materials

- Containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials sold for use in packing, packaging, or shipping tangible personal property, if such items are used by the purchaser to transfer merchandise to customers.
- Meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags, or other packaging and shipping materials sold for use in packing, packaging, or ship-

ping meat or meat products, regardless of whether such items are used to transfer merchandise to customers.

10. Printed Advertising Materials

Printed advertising materials, such as catalogs and their envelopes, purchased and stored for the purpose of subsequently transporting them outside Wisconsin by the purchaser for use solely outside Wisconsin.

11. Raw Materials for Printed Materials

Raw materials used for the processing, fabricating, or manufacturing of, or the attaching to or incorporating into, printed materials that are transported and used solely outside Wisconsin, even if the printed materials are not sold.

12. Semen

Semen used in the artificial insemination of livestock.

13. Utilities' Property

Fuel sold to utilities for conversion to electric energy, gas, or steam by the utility, and the portion of fuel converted to steam for purposes of resale by persons other than utilities.

14. Waste Treatment Facilities

- Tangible personal property becoming a component part of the treatment plant of an *utility* waste treatment facility approved by the Department of Revenue as exempt from property tax. Requests for approvals should be sent to the Bureau of Utility Tax, 2135 Rimrock Rd., Mail Stop 6-97, PO Box 8933, Madison WI 53708-8933.
- Tangible personal property becoming a component part of a manufacturer or other commercial waste treatment facility that is exempt from Wisconsin property tax. Department of Revenue approval is *not* required.
- Tangible personal property becoming a component part of a *Wisconsin govern-*

mental unit waste treatment facility. Department of Revenue approval of Wisconsin governmental waste treatment facilities is *not* required.

- Chemicals and supplies, including fuel and electricity, used or consumed in operating a governmental unit, approved utility, and industrial waste treatment facility.

Contractors should give their suppliers an exemption certificate (Form S-211) claiming this exemption.

More information is contained in sec. Tax 11.11, Wis. Adm. Code, "Industrial or governmental waste treatment facilities."

15. Waste Reduction or Recycling

Waste reduction or recycling machinery and equipment, including parts therefor, *exclusively* and *directly* used for waste reduction or recycling activities, and motor vehicles not required to be licensed for highway use which are used in such activities. Equipment used to remove impurities from lubricating oil used in manufacturing machines and equipment used to produce fuel cubes from shredded paper qualify for this exemption.

Note: Dumpsters, compactors, and other collection containers do not qualify for this exemption.

16. Snowmobile Trail Groomers

Snowmobile trail groomers and attachments that are purchased, stored, used, or consumed by a snowmobile club that (a) meets at least three times a year, (b) has at least ten members, (c) promotes snowmobiling, and (d) participates in the Department of Natural Resources snowmobile program under sec. 350.12(4)(b), Wis. Stats.

17. Resold Property

- a. Tangible personal property which is sold to persons who will resell the property.

Example: A retailer purchases property from a wholesaler or from another retailer and the retailer intends to resell the property to consumers.

- b. Tangible personal property which is sold to a service provider who resells the property to a customer in conjunction with the selling, performing, or furnishing of the following taxable services is considered to be resold by the service provider:

- Photographic services (sec. 77.52(2)(a)7, Wis. Stats.)
- Repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of tangible personal property (sec. 77.52 (2)(a)10, Wis. Stats.)
- Producing, fabricating, processing, printing, or imprinting of tangible personal property (sec. 77.52(2)(a)11, Wis. Stats.)
- Landscaping and lawn maintenance services (sec. 77.52(2)(a)20, Wis. Stats.)

Examples of services in which the service provider may purchase the property transferred without tax for resale follow:

Example 1: Person X repairs a furnace for Person Y for \$50, which includes the replacement of a furnace part. Person X may purchase the furnace part tax-free by giving a resale certificate to the seller of the part because the part is physically transferred to the customer.

Example 2: A photographer purchases mounts, frames, and paper for use in finishing photographs which are transferred to customers. Such mounts, frames, and paper may be purchased without tax for resale by the photographer.

Example 3: An operator of a landscaping service delivers and levels topsoil, then installs sod on the topsoil for a customer in providing a taxable landscaping service.

This person may purchase the topsoil and sod without tax for resale.

- c. Tangible personal property which is sold to a service provider who resells the property to a customer in conjunction with the selling, performing, or furnishing of nontaxable services or taxable services not listed in 17.b. is considered to be resold by the service provider if the property transferred to the customer is not incidental to the selling, performing, or furnishing of the service.

“Incidental” means “depending upon or appertaining to something else as primary; something necessary, appertaining to, or depending upon another which is termed the principal; something incidental to the main purpose of the service.”

Tangible personal property transferred by a service provider is incidental to the service if the purchaser’s main purpose or objective is to obtain the service rather than the property, even though the property may be necessary or essential to providing the service.

The “incidental” test does *not* apply to contractors. Contractors should refer to Part XII for information about their purchases.

Note: Tangible personal property which is sold to a service provider who transfers the property to the customer in conjunction with the selling, performing, or furnishing of nontaxable services or taxable services not listed in 17.b. is subject to sales and use tax if the transfer of the property is incidental to providing the service.

Examples of property transfers that are incidental to the service and, therefore, the service provider must pay the tax upon the purchase of the property follow:

Example 1: The operator of a motel or hotel is subject to tax on its purchases of beds, dressers, tables, linens, soap, and other

items purchased for use in rooms provided to transients since the customers' main purpose is to obtain access to the room.

Example 2: A telephone company purchases telephone books which it distributes to its customers. These purchases by the telephone company are subject to the tax since the customers' main purpose is to obtain telephone service.

Example 3: A baseball team purchases tickets to admit its customers to games and promotional items to be given to certain ticketholders for specific games. The tax applies to these purchases of tickets and promotional items because the ticketholders' main purpose is to attend the ball game.

Example 4: A person providing accounting services transfers documents, reports, forms, and binders to its clients in the course of setting up an accounting system for the clients. Purchases of paper, forms, and binders by the service provider are taxable since the clients' main purpose is to obtain the accounting service.

Example 5: An engineer's purchase of specialized paper, which is used to create drawings transferred to customers, is subject to the tax because the customers' main purpose is to obtain the engineer's design services.

Example 6: A physician purchases tape which is used in providing medical service. Such tape purchases are subject to the tax because the patients' main purpose is to obtain the medical service.

Example 7: A mover's purchases of corrugated boxes, containers, and related packing materials used in providing household goods moving services are subject to the tax because the customers' main purpose is to obtain the moving service.

See Appendix E, pages 57 and 58 for a copy of the Wisconsin Sales and Use Tax Exemption Certificate.

D. Exempt Organizations

Certain organizations, described below, are exempt from Wisconsin sales or use tax on their *purchases*. However, most *sales* by these organizations of taxable property and services are subject to sales tax unless the occasional sale exemption applies (see Part XVI on page 37). Thus, if such an organization has taxable sales it must obtain a seller's permit and remit sales tax to the Department of Revenue.

The following material describes exemptions available to various organizations.

1. Nonprofit Organizations

All tangible personal property and taxable services sold *to* nonprofit organizations operated exclusively for religious, charitable, scientific, or educational purposes or for the prevention of cruelty to children or animals, are exempt, if the organization obtains and gives its certificate of exempt status number to the seller.

To qualify for this exemption, an organization must obtain a certificate of exempt status (CES) number from the Wisconsin Department of Revenue and provide the number to the seller when purchasing taxable property or services.

Refer to Part IX for information about obtaining a CES number.

2. Wisconsin Governmental Units, Agencies, and Instrumentalities

- Sales of tangible personal property and taxable services sold *to* the following Wisconsin governmental units, agencies, or instrumentalities are exempt.

- The State of Wisconsin or any of its agencies.
- Any unit of Wisconsin government or an agency or instrumentality of one or more units of Wisconsin government. This exemption includes any municipi-

- pality, public school, or public school district in Wisconsin.
- A county-city hospital established under sec. 66.0927, Wis. Stats.
- An uptown business improvement district organized under sec. 66.1109, Wis. Stats.
- A sewerage commission organized under sec. 281.43(4), Wis. Stats., or a metropolitan sewerage district organized under secs. 200.01 to 200.15 or 200.21 to 200.65, Wis. Stats.
- A joint water authority created under sec. 66.0823, Wis. Stats.
- A local exposition district or professional baseball park or football stadium district under subchs. II, III, and IV of ch. 229, Wis. Stats.
- The University of Wisconsin Hospitals and Clinics Authority.
- A local cultural arts district created under subch. V of ch. 229, Wis. Stats.
- Fox River Navigational System Authority (effective September 1, 2001).

Sales to foreign countries, other states, or municipalities in other states or foreign countries are taxable.

The governmental unit, agency, or instrumentality must give the seller one of the following:

- a. An exemption certificate (Form S-211).
 - b. A completed purchase order or similar document clearly identifying the purchaser.
 - c. The Certificate of Exempt Status number issued to the governmental unit to be recorded by the seller on the invoice it keeps.
- Sales by the State of Wisconsin of admission fees or stickers permitting access to

state parks are exempt. A governmental unit's charges for copying public records or confidential records are exempt.

Refer to sec. Tax 11.05, Wis. Adm. Code, "Governmental units," for additional information about exempt sales by governmental units.

3. Elementary or Secondary Schools

- Sales of tangible personal property by any non-profit public or private elementary or secondary school, including the school district, are exempt. However, sales by colleges and universities are generally taxable.
- Sales of admissions to public and private elementary and secondary school activities are exempt if the entire net proceeds are expended for educational, religious, or charitable purposes.

More information about sales and purchases by elementary and secondary schools is contained in sec. Tax 11.03, Wis. Adm. Code, "Elementary and secondary schools and related organizations."

4. United States Government

Sales by or to the United States government or any of its agencies or instrumentalities are exempt.

Sales tax applies to the receipts of non-governmental operators of vending machines located on army, navy or air force installations, hospitals, or other facilities of the United States government.

5. Colleges, Universities, and Vocational Schools

- Gross receipts from student tuition are nontaxable sales of educational services. If a single billing for tuition includes mandatory charges for materials (which are incidental to the educational services) or mandatory charges for otherwise taxable services, the entire billing for these mandatory charges and tuition is considered a nontaxable education service. This is the

case whether such mandatory charges are or are not separately stated on such single billing issued to the student.

Note: Non-mandatory charges for these items included in such single billing are taxable.

- Sales of meals, food, food products, or beverages, as defined in sec. 77.54(20)(a) and (b), Wis. Stats., furnished in accordance with any contract or agreement by a public or private institution of higher education, are exempt if:
 - the items are furnished to an undergraduate student, a graduate student, or a student enrolled in a professional school if the student is enrolled for credit at that institution and if the items are consumed by that student, or
 - the items are furnished to a National Football League team.

E. Other Exemptions

1. Auto Dealers

The loan by an automobile dealer of a motor vehicle to any school or school district for a driver training educational program conducted by the school or school district is exempt. If the dealer makes any other use of the vehicle except retention, demonstration, or display while holding it for sale in the regular course of business, the use is taxable as described in sec. 77.53(1m), Wis. Stats.

2. Interest, Financing, or Insurance

Charges for interest, financing, or insurance are exempt if such charges are separately set forth upon the invoice given by the seller to the purchaser.

3. Interstate Commerce Sales

- Sales of tangible personal property by retailers are exempt from sales tax if the purchaser or the purchaser's agent takes possession from the retailer or the retailer's agent outside Wisconsin. Sales of taxable

services are exempt from sales tax if the service is furnished outside Wisconsin. A service to tangible personal property is furnished outside Wisconsin if the property serviced is transferred by the retailer or the retailer's agent to the purchaser or the purchaser's agent outside Wisconsin.

A common carrier or the U.S. Postal Service is always an agent of the retailer.

Example: A dry cleaner located in Beloit, Wisconsin has a pick-up route including territory in Illinois. The receipts from dry cleaning or laundry services of clothing picked up in Illinois and returned to Illinois by the dry cleaner are not subject to the Wisconsin tax, even though the actual service is performed in Wisconsin. In the opposite situation (i.e., Illinois dry cleaner selling in Wisconsin), the charges made to Wisconsin customers for dry cleaning are taxable.

Caution: If the tangible personal property sold or serviced outside Wisconsin is later brought into Wisconsin, the purchaser may be subject to Wisconsin use tax on the storage, use, or consumption of the property in Wisconsin, unless an exemption applies.

- Sales of tangible personal property purchased for use solely outside Wisconsin and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation and actually delivered to a port outside the continental limits of the United States prior to making any use of the property.

4. Nonresidents

- Aircraft, motor vehicles, or truck bodies (including semitrailers) sold in Wisconsin to nonresidents of Wisconsin who do not use such property in Wisconsin other than to remove it from Wisconsin, are exempt. However, other tangible personal property sold to nonresidents is taxable if delivery takes place in Wisconsin.

- An aircraft is exempt from Wisconsin use tax when:
 - a. It is purchased in another state.
 - b. Its owner or lessee has paid all of the sales and use taxes imposed in respect to it by the state where it was purchased.
 - c. The owner or lessee is a corporation, and that corporation, and all corporations with which that corporation may file a consolidated return for federal income tax purposes, neither is organized under the laws of Wisconsin nor has real property or other tangible personal property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
 - d. The owner or lessee is a partnership, and all of the corporate partners fulfill the requirements in c. above and none of the general partners or limited partners who has management or control responsibilities is domiciled in Wisconsin and the partnership has no other tangible personal property and no real property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
 - e. If the owner or lessee is a limited liability company, all of the corporate members fulfill the requirements under c. above, and none of the managers and none of the members who has management control responsibilities is domiciled in Wisconsin and the limited liability company has no other tangible personal property and no real property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
 - f. The owner or lessee is an individual, and the owner or lessee is not domiciled in Wisconsin.
 - g. The owner or lessee is an estate, trust, or cooperative, and that estate, that trust and its grantor, or that cooperative does not have real property or other tangible personal property, except aircraft and such property as hangars, accessories, attachments, fuel, and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
 - h. The Department of Revenue has not determined that the owner, if the owner is a corporation, trust, partnership, or limited liability company, was formed to qualify for the exemption from Wisconsin use tax.
 - A boat is exempt from Wisconsin use tax if purchased in a state contiguous to Wisconsin by a person domiciled in that state if the boat is berthed in Wisconsin's boundary waters adjacent to the purchaser's state of domicile, if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made.
 - Household goods, aircraft, motor vehicles, boats, snowmobiles, mobile homes, trailers, semitrailers, and all-terrain vehicles, for personal use, purchased by a nonresident outside this state 90 days or more before bringing the property into this state in connection with a change of domicile to this state.
 - Repair work (labor and materials) performed in Wisconsin on a nonresident's motor vehicle or truck body is taxable.
 - Repair work (labor and materials) performed in Wisconsin on a nonresident's aircraft is taxable.
- Exception:** Repair services for aircraft never used in Wisconsin other than to be removed from the state when purchased and subsequently brought into Wisconsin solely

to be repaired are not taxable. However any sales of parts are taxable.

5. Non-Sales

The following transactions are not considered to be sales under the Wisconsin sales and use tax law, and, therefore, are not subject to Wisconsin sales or use tax:

- The transfer of property to a corporation upon its organization solely in consideration for the issuance of its stock.
- The contribution of property to a newly formed partnership solely in consideration for a partnership interest therein.
- The contribution of property to a limited liability company upon its organization solely in consideration for a membership interest.
- The transfer of property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation.
- The transfer of property to a limited liability company solely in consideration for a membership interest, pursuant to a merger.
- The distribution of property by a corporation to its stockholders as a dividend or in whole or partial liquidation.
- The distribution of property by a partnership to its partners in whole or partial liquidation.
- The distribution of property by a limited liability company to its members in whole or partial liquidation.
- Repossession of property by the seller from the purchaser when the only consideration is cancellation of the purchaser's obligation to pay the remaining balance of the purchase price.
- The transfer of transmission facilities, as defined in sec. 196.485(1)(h), Wis. Stats., to a transmission company, as defined in sec. 196.485(1)(ge), Wis. Stats., after the organizational start-up date, as defined in

sec. 196.485(1)(dv), Wis. Stats., of such company in exchange for securities, as defined in sec. 196.485(1)(fe), Wis. Stats. (effective October 29, 1999)

- The transfer of property in a reorganization as defined in sec. 368 of the Internal Revenue Code in which no gain or loss is recognized for franchise or income tax purposes.
- Any transfer of all or substantially all the property held or used by a person in the course of an activity requiring the holding of a seller's permit, if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer. In this context, stockholders, bondholders, partners, members, or other persons holding an interest in a corporation or other entity are regarded as having the real or ultimate ownership of the property of the corporation or other entity. "Substantially similar" means 80% or more of ownership.

A business entity that converts to another business entity under sec. 179.76, 180.1161, 181.1161, or 183.1207, Wis. Stats., is subject to the sales and use tax provisions applicable to liquidations, reorganizations, and business entity formations in ch. 77, subch. III, Wis. Stats. (effective October 1, 2002).

6. Donation of Certain Property

The donation, to an entity specified in sec. 77.54(9a), Wis. Stats., of property that the donating person has purchased tax-free for resale or with a valid exemption certificate is exempt from use tax.

Exempt entities specified in sec. 77.54(9a), Wis. Stats., are discussed in Part XI.D.1 and 2 of this publication.

XII. CONTRACTORS

How Contractors Are Taxed on Labor, Materials, and Supplies: Contractors are taxed in several ways, depending upon whether they are acting as retailers or as consumers in conducting their business.

A contractor is engaged in business as a *consumer* when constructing, installing, repairing, or servicing real property such as buildings. As a consumer, the contractor must pay sales or use tax on materials and supplies used in such activities. A contractor may not charge sales tax on the labor or materials used in such work. However, the contractor's selling price may reflect all costs incurred.

A contractor is engaged in business as a *retailer* when selling, installing, repairing, or servicing tangible personal property. When selling, installing, repairing, or servicing personal property, the contractor is liable for sales tax on all gross receipts from labor, material, and other charges for such sales or activities (unless an exemption applies as described in Part XI).

Important: Obtain Publication 207, "Sales and Use Tax Information for Contractors," for more information about what is real and personal property and a contractor's activities involving such property for purposes of the sales and use tax.

Contractors and other persons providing taxable landscaping and lawn maintenance services may purchase without tax for resale, items physically transferred to the customer in conjunction with providing the taxable service, even though the service results in a realty improvement.

Example: A landscaper installs sod and plants trees for a customer in providing a taxable landscaping service. The landscaper may purchase the sod and trees without tax for resale. The landscaper should give a completed exemption certificate indicating resale to the person from whom it purchased the sod and trees.

Contractor's Tools and Equipment: A contractor must pay a sales or use tax on all tools and equipment used in any construction, installation, repair, or service activity.

Contractors Constructing Buildings for Governmental Units, Schools, Churches, Hospitals, or Other

Exempt Institutions: Even though a contractor is constructing a building for governmental units, schools, churches, hospitals, or other exempt entities, the sales of building materials to the contractor are taxable. The reason for this treatment is that the contractor is the consumer of the building materials used in constructing the building. Consequently, the sale to the contractor is a retail sale and is subject to tax.

Refer to Publication 207, "Sales and Use Tax Information for Contractors," Part IV.A, and the tax release titled "Purchases of Building Materials by Exempt Entities for Use by Contractor in Real Property Construction" published in *Wisconsin Tax Bulletin* 115, October 1999.

Construction, Renovation, or Development of Professional Sports and Entertainment Home Stadiums: The sale of and the storage, use, and consumption of building materials, supplies, and equipment to or by owners, contractors, subcontractors, or builders acquired solely for or used solely in the construction, renovation, or development of sports and entertainment home stadiums are exempt from Wisconsin sales and use tax. For more information, contact any Department of Revenue office.

XIII. RENTALS – LESSORS

Gross receipts from the lease or rental of tangible personal property located in Wisconsin are subject to sales or use tax to the same extent that gross receipts from the sale of the same property would be subject to tax. A lease is a continuing sale for the period of time the leased property is in Wisconsin and the tax is collected by the lessor from the lessee at the time of each lease payment required under the lease.

A lessor's purchase of tangible personal property to be used solely for lease or rental, and not otherwise by the lessor, is exempt as a purchase for resale. The purchase of property to be used by the lessor and also leased to others is taxable and an exemption certificate indicating resale may not be given by the lessor on the purchase of such property.

A lessor's purchase of repair parts, repair service, and lubricants for property used solely in leasing may be purchased without tax for resale; however, a lessee's purchases of the same items for property leased from the lessor are taxable.

Charges by a lessor to a lessee for maintenance work on leased personal property are taxable.

Sometimes it is not clear whether a transaction involves a lease or the providing of a service by the owner of equipment. In this situation, for purposes of sales and use taxation, a person who uses his or her own equipment to perform a job and who assumes responsibility for its satisfactory completion is considered to be performing a service and is not considered to have leased the equipment used in providing the service. On the other hand, a person is considered to be leasing property in a situation in which the person furnishes equipment with an operator to perform a job which the "lessee" will supervise and be responsible for the job's satisfactory completion.

If it is customary or mandatory that the lessee accept an operator with the leased equipment, the entire charge for equipment and operator is taxable. However, if the lessor customarily gives the lessee the option of taking the equipment without an operator and bills the operator's services separately, the charge for the operator's services are not taxable.

Note: Refer to sec. Tax 11.29, Wis. Adm. Code, "Leases and rentals of tangible personal property," for additional information on specific lease transactions.

XIV. MANUFACTURERS

Specific exemptions are contained in the sales and use tax law for persons engaged in manufacturing. The law defines "manufacturing" as "the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing."

Types of businesses which are usually considered to be manufacturers include (this list is not all-inclusive):

Asphalt plants, bakeries, battery makers, breweries (including micro-breweries in brew-pubs) and soda water bottling plants, candy factories, cement and concrete plants, cheese cutting and repackaging plants, chemical processing plants, persons engaged in chemically treating wood, concrete block and tile producers, creameries and instant milk producers, dairies and cheese plants, dental labs, ductwork fabrication shops, electric generating companies, fertilizer plants, flour and feed mills including mobile units, food processing plants (canning

and freezing), foundries and glass making plants, grain dryers, hide curers, persons engaged in duplicating keys, limestone calcination plants, machine and equipment producers, malting plants, meat packing and processing plants, mobile home and modular home factories (when not engaged in real property construction activities), motor vehicle and aircraft factories, oil refineries, paint factories, paper making plants, persons engaged in snowmaking for a ski hill, photofinishers, printers, sawmills, scrap processors, shoe and clothing factories, smelting and steel mills, tanneries, tool and die making plants, tire retreaders, persons engaged in crushing, washing, grading and blending sand, rock, gravel and other minerals, persons engaged in ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and the beneficiation, including but not limited to the preparation of ore for smelting, persons engaged in editing and duplicating video tapes, and persons engaged in heat treating and metal plating semi-finished products furnished by manufacturers.

Businesses which are not considered manufacturers include (this list is not all-inclusive):

Contractors (when engaged in real property construction activities and installing or repairing tangible personal property), farmers, fish hatcheries, freezer and locker plants, highway truckers, hotels, junk and scrap dealers, laundries and dry cleaners, repair persons, restaurants, television and radio stations, and persons engaged in: corn shelling, experimental and development activities, logging and forestry operations, mining, paper recycling, photography, popping corn, the business of raising and breeding animals, real property construction activities, custom slaughtering of animals and vending machine operations.

Exemption for Manufacturing Machines and Specific Processing Equipment:

Machines and specific processing equipment and repair parts or replacements and safety attachments for such machines and equipment may be purchased exempt from tax if such items are used *exclusively* and *directly* by a manufacturer in manufacturing tangible personal property. It should be noted that to qualify for the exemption from sales and use tax, the items must be used

exclusively and directly in manufacturing tangible personal property.

Exemption for Ingredients, Component Parts, and Consumable Items:

Items which become an ingredient or component part of an article of tangible personal property or which are consumed, destroyed, or lose their identity in the manufacture of tangible personal property in any form destined for sale may be purchased exempt from sales and use tax. However, this exemption does not apply to fuel or electricity.

Note: Although manufacturers cannot purchase fuel or electricity exempt from sales and use tax, they may reduce their Wisconsin franchise or income taxes by claiming a credit for sales and use tax paid on fuel and electricity consumed in manufacturing tangible personal property in Wisconsin. The instructions for completing a Wisconsin franchise or income tax return contain information about this credit.

Examples of ingredients or component parts qualifying for the exemption are neon or argon gases used as a filler in the production of light bulbs. Welding rods which become a component part of the product manufactured may also be purchased exempt from tax.

Examples of items which are consumed, destroyed or lose their identity are acids, chemicals, cleaning compounds, and solvents for maintaining manufacturing machinery, cutting or lubricating oils, greases, lapping and grinding compounds, sandpaper, and gases and wood used to smoke products.

The exemption does not apply to purchases of employee wearing apparel and gloves worn for the comfort or welfare of the employee. However, wearing apparel consumed during the manufacturing process which prevents contamination of the product produced is exempt from tax.

For more information about how the sales and use tax law applies to manufacturers, obtain Publication 203, "Sales and Use Tax Information for Manufacturers."

Also, rules which may be of interest to manufacturers include secs. Tax 11.15 - "Containers and other packaging and shipping materials," 11.38 - "Fabricating and processing," 11.39 - "Manufacturing," 11.40 - "Exemption of machines and processing equipment," and

11.41 - "Exemption of property consumed or destroyed in manufacturing," Wis. Adm. Code.

XV. SELLING A BUSINESS OR BUSINESS ASSETS

The sale of business assets consisting of tangible personal property (e.g., equipment, furniture, and fixtures) is subject to sales tax if you hold or are required to hold a seller's permit at the time of sale, except that the sale is exempt if all the following conditions are met:

- a. The sale is of personal property (other than inventory held for sale) previously used by the seller to conduct its trade or business at a location.
- b. The sale occurs after the seller ceased operating the business at that location.

A sale meeting the above two conditions is exempt from sales and use taxes even though the seller holds a seller's permit for one or more other locations.

Situations involving the sale of business assets which are subject to tax include:

- Selling surplus assets of a continuing business.
- Sales of motor vehicles, boats, snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers, all-terrain vehicles, or aircraft.

XVI. OCCASIONAL SALES

The "occasional sales" of property and services may be taxable or exempt as described below.

Exempt Occasional Sales By Nonprofit Organizations: Sales by neighborhood associations, churches, social clubs, civic groups, garden clubs, and other nonprofit organizations which conduct one or more fund raising events during the year are exempt occasional sales if certain conditions are met.

The sales of tangible personal property and services, including admissions or tickets to an event, conducted by a nonprofit organization are exempt occasional sales if: (1) there is no entertainment paid more than \$300 at an event for which an admission is charged, (2) the organization is not engaged in a trade or business, and (3)

the organization is not otherwise required to have a seller's permit.

An organization is deemed to be engaged in a trade or business if its sales of tangible personal property or services (not including sales of tickets to events) or its events occur on more than 20 days during the year. However, if an organization's receipts do not exceed \$15,000 for the year, it is not considered to be engaged in a trade or business even if its sales and/or events exceed 20 days.

A nonprofit organization whose gross receipts have become taxable because it has exceeded the above standards must obtain a seller's permit and pay taxes on all taxable receipts received after it is required to obtain that permit.

If an organization later becomes eligible for the occasional sale exemption except for its possession of a seller's permit, it may surrender that permit. Sales of tangible personal property and taxable services are subject to Wisconsin sales or use tax until the permit is surrendered.

For additional information on exempt occasional sales by nonprofit organizations, see Publication 206, "Sales Tax Exemption for Nonprofit Organizations."

Sales by Auction: Sales by an auctioneer of personal household goods and personal farm property if the auctioneer has five or fewer auctions at that location during the year are exempt occasional sales. For indoor locations, "location" means a building, except that in the case of a shopping center or shopping mall, "location" means a store.

Refer to Publication 217, "Auctioneers – How Do Wisconsin Sales and Use Taxes Affect your Operations?," for more information.

Sales Which Are Not "Occasional Sales": The following transactions are not exempt occasional sales, but rather are taxable sales:

- Sales by a person who holds or is required to hold a seller's permit. For example, sales of used equipment by a retail store or vending machine operator are taxable.
- The sale of a business or the assets of a business when the seller holds or is required to hold a seller's

permit and does not qualify for the occasional sale exemption (see Section XV). The tax applies to the portion of the gross receipts attributable to the personal property, such as equipment, furniture, and fixtures.

- Sales made by persons who hold themselves out to the public as engaged in business, even though their sales may be few and infrequent. This includes the sales of works of art, handmade articles, antiques, or used property by artists or others who are pursuing a vocation or part-time business as a seller of such property.

Exception: Sales of tangible personal property or taxable services by a person not otherwise required to hold a seller's permit, if the total taxable gross receipts from sales of tangible personal property and taxable services are less than \$1,000 during the calendar year, are occasional sales.

- Sales of bingo supplies and cards by persons conducting bingo games.
- Sales by persons engaged primarily in the business of making nontaxable sales of personal property, such as manufacturers, wholesalers, and grocers. Since these persons are in the business of selling tangible personal property, the fact that only a small fraction of their total sales are taxable retail sales does not make these sales exempt occasional sales.

Occasional Sales of Motor Vehicles, Boats, Etc., Are Taxable: Occasional sales of motor vehicles, boats, snowmobiles, mobile homes 45 feet or less in length, trailers, semitrailers, all-terrain vehicles, and aircraft are taxable unless sold to the spouse, parent, stepparent, father-in-law, mother-in-law, child, stepchild, daughter-in-law or son-in-law, of the seller, and then only when the unit was previously registered or titled in Wisconsin in the name of the seller.

The purchaser must pay any tax due at the time the unit is registered or titled for use in Wisconsin. The purchaser of a motor vehicle, mobile home, trailer, or semitrailer files Form MV-1, "Application for Title/Registration" with the Department of Transportation and pays any tax due. The purchaser of an aircraft pays any tax due to the Department of Transportation with the "Application for Aircraft Registration or Exemption." The purchaser of a boat, snowmobile, or all-terrain vehicle pays the tax to the Department of Natural Resources (or Lac du Flambeau Band for snowmobiles

or all-terrain vehicles registered with the Lac du Flambeau Band) at the time the boat, snowmobile, or all-terrain vehicle is registered with that department.

Filing an incorrect return due to neglect may result in a penalty of 50% of the tax finally determined.

XVII. DIRECT PAY

Eligible persons may purchase certain tangible personal property or taxable services without Wisconsin sales or use tax using a direct pay permit. If the tangible personal property or taxable services are stored, used, or consumed in Wisconsin in a taxable manner, the purchaser must report Wisconsin use tax on the purchase price of the property or service.

Who Is Eligible for Direct Pay? The Department of Revenue will issue a direct pay permit to an applicant at the beginning of the applicant's taxable year, if the following seven requirements are met:

1. Because the nature of the applicant's business, issuing the permit will significantly reduce the work of administering the sales and use taxes;
2. The applicant's accounting system will clearly indicate the amount of tax the applicant owes;
3. The applicant makes enough taxable purchases to justify the expense of regular audits by the Department of Revenue;
4. The applicant is not liable under ch. 71, 72, 76, 77, 78, or 139, Wis. Stats., for delinquent taxes (including costs, penalties, surcharges, and interest) of \$400 or more if any part of the tax is delinquent for at least five months;
5. It is in the state's best interests to issue the permit;
6. The applicant purchases enough tangible personal property under circumstances that make it difficult to determine whether the property will be subject to sales or use tax; and
7. The applicant holds a valid business tax registration certificate under sec. 73.03(50), Wis. Stats.

How to Apply for a Direct Pay Permit: An application for a direct pay permit (Form S-101) may be

obtained by writing to or calling Wisconsin Department of Revenue, PO Box 8902, Madison, WI 53708-8902 (telephone (608) 266-2776).

Additional Information: Obtain a copy of sec. Tax 11.13, Wis. Adm. Code, for more information about direct pay.

XVIII. COUNTY AND STADIUM SALES AND USE TAXES

A. Introduction

1. County Sales and Use Taxes

As of January 1, 2003, there is a 0.5% county sales and use tax in 57 counties. Listed below are the 57 counties and the effective date for each county's tax. (Note: The county code assigned by the department for each county is in parenthesis following the county name. This may be helpful to retailers for computer programming purposes.)

Counties With County Tax

County	Effective Date	County	Effective Date
Adams (01)	1/1/94	Juneau (29)	4/1/92
Ashland (02)	4/1/88	Kenosha (30)	4/1/91
Barron (03)	4/1/86	LaCrosse (32)	4/1/90
Bayfield (04)	4/1/91	Lafayette (33)	4/1/01
Buffalo (06)	4/1/87	Langlade (34)	4/1/88
Burnett (07)	4/1/89	Lincoln (35)	4/1/87
Chippewa (09)	4/1/91	Marathon (37)	4/1/87
Columbia (11)	4/1/89	Marinette (38)	10/1/01
Crawford (12)	4/1/91	Marquette (39)	4/1/89
Dane (13)	4/1/91	Milwaukee (40)	4/1/91
Dodge (14)	4/1/94	Monroe (41)	4/1/90
Door (15)	4/1/88	Oconto (42)	7/1/94
Douglas (16)	4/1/91	Oneida (43)	4/1/87
Dunn (17)	4/1/86	Ozaukee (45)	4/1/91
Eau Claire (18)	1/1/99	Pepin (46)	4/1/91
Forest (21)	4/1/95	Pierce (47)	4/1/88
Grant (22)	4/1/02	Polk (48)	4/1/88
Green (23)	1/1/03	Portage (49)	4/1/89
Green Lake (24)	7/1/99	Price (50)	1/1/93
Iowa (25)	4/1/87	Richland (52)	4/1/89
Iron (26)	4/1/91	Rusk (54)	4/1/87
Jackson (27)	4/1/87	St. Croix (55)	4/1/87
Jefferson (28)	4/1/91	Sauk (56)	4/1/92

Counties With County Tax

County	Effective Date	County	Effective Date
Sawyer (57)	4/1/87	Walworth (64)	4/1/87
Shawano (58)	4/1/90	Washburn (65)	4/1/91
Taylor (60)	7/1/99	Washington (66)	1/1/99
Trempealeau (61)	10/1/95	Waupaca (68)	4/1/89
Vernon (62)	1/1/97	Waushara (69)	4/1/90
Vilas (63)	4/1/88		

As of January 1, 2003, there is **no** county sales and use tax in the following 15 Wisconsin counties.

Counties Without County Tax

Brown (05)	Kewaunee (31)	Rock (53)
Calumet (08)	Manitowoc (36)	Sheboygan (59)
Clark (10)	Menominee (72)	Waukesha (67)
Florence (19)	Outagamie (44)	Winnebago (70)
Fond du Lac (20)	Racine (51)	Wood (71)

The Wisconsin Department of Revenue administers the county tax. Retailers who make sales subject to the 0.5% county tax must collect 5.5% sales tax on their retail sales — 5% state sales tax and 0.5% county sales tax.

Both the state tax and county tax are reported by retailers on their sales and use tax return (Form ST-12) filed with the Department of Revenue.

Retailers who report sales and purchases subject to county sales and use tax in more than three counties must complete and submit a separate Schedule CT with the Form ST-12 they file. Schedule CT lists all counties that have adopted the county tax.

The department, after receiving the county tax from retailers, then makes monthly distributions of the county tax revenues to the counties which adopted the tax.

Caution: Retailers who are not located in a county with a tax may still be subject to the county tax and are required to collect and remit it, if they (1) deliver property or taxable services, into such a county with their own vehicles or are in some other way engaged in business in such a county as described in Part C, or (2) sell items registered with the state which are cus-

tomarily kept in a county which has adopted the county tax.

2. Stadium Sales and Use Taxes

a. Baseball Stadium Tax

A 0.1% baseball stadium tax is imposed on the sale of and the storage, use, or consumption of tangible personal property and taxable services in the following five Wisconsin counties which make up the “baseball stadium district.”

- Milwaukee
- Ozaukee
- Racine
- Washington
- Waukesha

The baseball stadium tax was created for the purpose of assisting in the development of a professional baseball park in Wisconsin.

Retailers who make sales subject to the baseball stadium tax in Milwaukee, Ozaukee, and Washington counties will collect 5.6% sales tax on such retail sales — 5% state sales tax, 0.5% county sales tax, and 0.1% baseball stadium sales tax.

Retailers who make sales subject to the baseball stadium tax in Racine and Waukesha counties will collect 5.1% sales tax on such retail sales — 5% state sales tax and 0.1% baseball stadium sales tax.

b. Football Stadium Tax

Beginning November 1, 2000, there is a 0.5% football stadium tax on the sale of and the storage, use, or consumption of tangible personal property and taxable services in Brown County.

The football stadium tax was created for the purpose of assisting the development of professional football stadium facilities in Wisconsin.

Retailers who make sales subject to the football stadium tax in Brown County will collect 5.5% sales tax on such retail sales

— 5% state sales tax and 0.5% football stadium sales tax.

Stadium taxes are reported with state and county sales and use taxes on Form ST-12.

Caution: Retailers who are not located in Brown, Milwaukee, Ozaukee, Racine, Washington, or Waukesha counties may still be subject to the stadium taxes if they deliver property into any of these six counties or are in some other way “engaged in business” in the baseball or football stadium district, as described in Part C.

Note: The Department of Revenue currently has no list available that accurately gives the county for a particular municipality or five digit zip code.

To accurately determine the county in which a sale takes place, a seller should ask the customer for the name of the county where the customer will take possession of the property or where the service will be furnished.

B. What Types of Tangible Personal Property and Services Are Taxable?

The types of tangible personal property and services that are subject to the 5% state sales and use tax are also subject to the 0.5% county and 0.1% or 0.5% stadium sales and use taxes.

The county and stadium taxes may not be imposed on any types of property or services that are not subject to the 5% state tax. If property or services are exempt from the 5% state tax, they are also exempt from the 0.5% county and 0.1% or 0.5% stadium taxes.

C. What Sales Are Subject to the County and Stadium Sales Tax?

The 0.5% county, 0.1% baseball stadium, and 0.5% football stadium sales taxes are imposed on the gross receipts from retail sales or rentals of tangible personal property or taxable services in a county with a county tax or a stadium district, with the following exception. Sales of motor vehicles, boats, snowmobiles, mobile homes 45 feet or less in length, trailers, semitrailers, all-terrain vehicles, and

aircraft are subject to the county and stadium use taxes (rather than county and stadium sales taxes) as described in Part D.

For a retail sale or rental to be subject to the county or stadium sales tax, the following two conditions must exist: (1) the retailer who makes the retail sale or rental must be “engaged in business” in a county with a county tax or a stadium district and (2) the sale or rental must have a “situs” in a county with a county tax or a stadium district.

When is a retailer “engaged in business” in a county or a stadium district?

A retailer is “engaged in business” in a county or a stadium district if one or more of the following conditions exist in the county or stadium district.

- The retailer has a store in the county or stadium district.
- The retailer owns any business real property in the county or stadium district.
- The retailer leases or rents out any tangible personal property located in the county or a stadium district.
- The retailer maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, agent, or other person, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business in the county or stadium district.
- The retailer has any representative, agent, salesperson, canvasser, or solicitor operating in the county or stadium district under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any tangible personal property or taxable services.
- The retailer services, repairs, or installs products in the county or stadium district.
- The retailer delivers goods into the county or stadium district in company-operated vehicles.
- The retailer performs construction activities in the county or stadium district.

Out-of-state retailers who are not “engaged in business” in a county with a tax or a stadium district, but who desire to collect county or stadium use tax for the convenience of their customers, may collect county or stadium use tax from their customers and pay the county and stadium taxes in the same manner as other retailers engaged in business in such counties or stadium districts.

Where is the “*situs*” of a sale or rental?

Situs of Sales of Property

All retail sales of tangible personal property are completed at the time when and the place (“*situs*”) where the seller or the seller’s agent transfers possession to the buyer or the buyer’s agent. A common carrier or the U.S. Postal Service is the agent of the seller, regardless of any f.o.b. point and regardless of the method by which freight or postage is paid.

Example: A person buys a radio for \$200 from a seller in a county with a county tax. The buyer takes possession of the radio at the seller’s business location in such county and then travels in his car to his home in a county which has no county tax. Since the sale had a “*situs*” in a county with a county tax (the place where possession transferred to the buyer), it is subject to the 0.5% county sales tax of \$1.

Example: A person buys a piano for \$1,500 at a store in Sheboygan County; however, it is delivered to the buyer in Milwaukee County (in the baseball stadium district) by the seller’s company-operated vehicle. The seller is “engaged in business” in the baseball stadium district when delivering the piano into Milwaukee County. The sale of the piano is subject to the baseball stadium sales tax of \$1.50.

Situs of Rentals of Property

Rentals of Property Other Than Moving Property: The “*situs*” of the rental is at the location of the property.

Rentals of Moving Property Used On Highways: Rented motor vehicles and other equipment used principally on the highway at normal highway speeds have a “*situs*” where they are customarily

kept, with one exception; Drive-it-yourself motor vehicles and equipment used principally on the highway at normal highway speeds and used for one-way trips or leased for less than one month, have a “*situs*” where they come into the lessee’s possession.

Rentals of Other Moving Property: Except for moving property used on highways as described above, rentals of property that characteristically is moving property, including aircraft and boats, have a “*situs*” where the rental property is used primarily or usually kept when it is not used.

Situs of Services

Services have a “*situs*” at the location where they are furnished to the customer, with the following exceptions:

- Communication services have a “*situs*” where the customer is billed for the service if the customer calls collect or pays by credit card. The “*situs*” of mobile telecommunication service involving multiple locations is where the call originated, provided it is not a collect or credit card call.
- Towing services have a “*situs*” at the location to which the vehicle is delivered.
- Services performed on tangible personal property have a “*situs*” at the location where the property is delivered to the buyer.

Example: An electrician repairs wiring on equipment located in a county which has a county tax. This repair service was furnished in a county with a tax and is subject to the 0.5% county sales tax, regardless of the electrician’s business location.

D. When Do the County and Stadium Use Taxes Apply?

1. General

A 0.5 % county use tax, a 0.1% baseball stadium use tax, or 0.5% football stadium use tax are imposed on the sales price of tangible personal property stored, used, or consumed in a county with a county tax or a stadium district, with the following exceptions

2. Exceptions

- No county use tax will be imposed if (a) a receipt indicates county sales taxes have been paid, or (b) county use tax has been paid as described in the “Contractors” and “Motor Vehicles, Boats, Etc.” parts that follow.

No baseball stadium use tax will be imposed if (a) a receipt indicates baseball stadium sales taxes have been paid, or (b) baseball stadium use tax has been paid as described in the “Contractors” and “Motor Vehicles, Boats, Etc.” parts that follow.

No football stadium use tax will be imposed if (a) a receipt indicates football stadium sales taxes have been paid, or (b) football stadium use tax has been paid as described in the “Contractors” and “Motor Vehicles, Boats, Etc.” parts that follow.

- No county use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a county tax and the property is later brought by the buyer into a county with a county tax

No baseball stadium use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a baseball stadium tax and the property is later brought by the buyer into the baseball stadium district.

No football stadium use tax will be imposed if the buyer purchased property in a sale consummated in a Wisconsin county that does not have a football stadium tax and the property is later brought by the buyer into the football stadium district.

See the exceptions for “Contractors” and “Motor Vehicles, Boats, Etc.” that follow.

- If the buyer has paid a similar local tax in another state on the purchase of the same

property or services, that tax may be credited against the county and stadium use taxes.

Example: A company located in a county with a county tax purchases an office machine for \$10,000 from an Ohio seller who has not charged the 5% Wisconsin use tax of \$500 or the 0.5% county use tax of \$50. Any Ohio sales tax paid by the buyer to the seller may be credited against the \$500 Wisconsin use tax. If a county sales tax of an Ohio county was also paid by the buyer, that tax may be credited against the \$50 county use tax.

3. Contractors

County and stadium use taxes are imposed upon a contractor engaged in construction activities in a county with a county tax and a stadium district, on the sales price of tangible personal property that is used in constructing, altering, repairing, or improving real property and that becomes a component part of real property in any of the counties with a county tax and in a stadium district.

A similar local sales tax paid in another state is allowed as a credit in computing the Wisconsin county and stadium use taxes.

If the buyer has paid a football stadium tax on the purchase of tangible personal property or taxable services, that tax may be credited against the baseball stadium tax and vice versa. However, if a buyer paid a Wisconsin county tax on the purchase of the property or services, that tax may not be credited against the baseball or football stadium use tax. Similarly, if a buyer paid a Wisconsin football or stadium tax on the purchase of tangible personal property or taxable services, that tax may not be credited against the county use tax.

4. Motor Vehicles, Boats, Etc.

County and stadium use taxes are imposed upon every motor vehicle, boat, snowmobile, mobile home 45 feet or less in length, trailer, semi-trailer, all-terrain vehicle, or aircraft, if (a) that

property must be registered or titled with the State of Wisconsin, and (b) that property is to be customarily kept in a county with a county tax and/or a stadium district.

Purchases of motor vehicles, etc. from non-dealers: The buyer of the motor vehicle, boat, etc., that is taxable must remit the 5% state use tax, 0.5% county use tax, and 0.1% or 0.5% stadium use tax to the state agency at the time of registering or titling with the state agency.

Example: “A” buys a car for \$5,000 from “B”, who is not a motor vehicle dealer. “A” is a resident of a Milwaukee County and will keep the car at his residence. “A” must file an Application for Title/Registration (Form MV-1) with the Department of Transportation and include with this form the 5% state use tax of \$250, the 0.5% county use tax of \$25, and the 0.1% baseball stadium use tax of \$5.

Purchases from dealers: The dealer (seller) of motor vehicles, boats, etc., must collect the state sales tax and the county and stadium use taxes from the buyer.

Example: “A” (the resident of Milwaukee County) buys a car for \$5,000 from “C,” who is a motor vehicle dealer in a county which does not have the county or stadium tax. “C” must remit the 5% state sales tax of \$250, the county use tax of \$25, and the baseball stadium use tax of \$5 to the Department of Revenue.

Rentals of motor vehicles, etc.: Retailers, regardless of whether or not they are dealers of motor vehicles, boats, etc., must report the county and stadium sales and use tax from the rentals of such property on their sales and use tax return and remit the 5% state tax, 0.5% county tax, and 0.1% or 0.5% stadium tax to the Department of Revenue on such rentals.

E. Transitional Provisions

1. Services

Services subject to the 5% state sales tax are not subject to the county or stadium tax if those services are billed to the customer and paid for

before the effective date of the county or stadium tax, regardless of whether the services are furnished to the customer before or after the effective date of the county or stadium tax.

2. Sales of Tangible Personal Property (except construction materials used in real property construction – see 4. below)

Sales of tangible personal property before the effective date of the county or stadium tax are not subject to the county or stadium sales or use tax.

A sale takes place when the seller or the seller’s agent transfers possession of the tangible personal property to the buyer or the buyer’s agent, regardless of when the tangible personal property was paid for or ordered.

Example: On December 20, 2002, Individual A placed an order for an automobile with Dealership B. The automobile is not available for delivery until January 15, 2003. Individual A picks up the vehicle from Dealership B on January 16, 2003. If County C (where Individual A will customarily keep the automobile) adopts the county tax effective January 1, 2003, the sale of the automobile to Individual A is subject to the County C tax. The sale of the automobile took place on January 16, 2003 when Individual A received possession, which is after the effective date of the County C tax (January 1, 2003).

3. Leases of Tangible Personal Property

The lessor’s rental receipts from tangible personal property that the lessor is obligated to furnish at a fixed price under a contract entered into before the effective date of the county or stadium tax, are not subject to the county or stadium sales tax until the contract is terminated, extended, renewed, or modified. However, the lessee is subject to the county and stadium use taxes on these lease or rental payments beginning on the effective date of the county or stadium tax, except when the lessor voluntarily reports the tax on such receipts for the convenience of the customer or when the

lessor collects the tax because the contract is modified.

4. Construction Materials

Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the county or stadium taxes if (1) the materials are affixed and made a structural part of real estate, and (2) the amount payable to the contractor is fixed without regard to the costs incurred in performing a written contract that was irrevocably entered into prior to the effective date of the county or stadium tax, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of the county or stadium tax.

F. Collecting County and Stadium Tax From Customers

Read Part VI which explains how the 5% state tax, 0.5% county tax, and 0.1% and 0.5% stadium taxes are collected from customers.

G. Sales and Use Tax Return Will Require County and Stadium Tax Data

Retailers engaged in business in a county with a county tax or a stadium district will have to keep records showing the amount of their taxable receipts subject to sales tax and purchases subject to use tax for a stadium district and each county that has a county tax.

Retailers who report sales and purchases subject to county sales and use tax for three or less counties will fill in the first five letters of the counties and county codes with the appropriate sales and purchases for those counties on Form ST-12. **Exception:** Enter GLAKE for Green Lake County.

Retailers who report sales and purchases subject to county sales and use tax for more than three counties must complete and submit a separate Schedule CT with the Form ST-12 they file. Schedule CT lists all counties that have adopted the county tax.

H. Seller's Permits

No additional seller's permit is required by a retailer for the county and stadium taxes.

I. Audits, Appeals, Collections, Etc.

The Wisconsin Department of Revenue has authority to audit persons to determine if they reported and paid the correct county and stadium taxes, to impose interest and penalties related to such taxes, and to collect any unpaid county and stadium taxes. Interest rates on refunds and unpaid county and stadium taxes are the same as the rates that apply to the 5% state sales and use taxes. A county and stadium district may not intervene in any matter related to the audit, appeal, or collection of any county and stadium sales and use taxes.

XIX. YOU MAY BE AUDITED

If you are in business, an auditor from the Department of Revenue may visit you. Don't be alarmed, as many taxpayers are audited to determine if they paid the correct amount of income, corporate, withholding, and sales and use taxes.

You will be notified prior to any audit so that a convenient time can be arranged to examine your records. As a taxpayer, you are required to make available your records for sales and use tax as well as your records for other taxes. To perform the audit, it will be necessary for the auditor to examine these records. Don't hesitate to ask any questions of the auditor.

If the audit results show that you have not paid the proper amount of tax, the department will issue you a written notice indicating the amount of tax you owe or overpaid. As a taxpayer you have the right to appeal if you disagree with the audit. The notice from the department will explain the procedures for appealing.

XX. OTHER TAXES AND FEES TO BE AWARE OF

If you have business activities or earn income in Wisconsin, you also may be subject to Wisconsin taxes other than sales and use taxes. Although the information below is not intended to be all-inclusive, it may help

you in obtaining information about other Wisconsin taxes.

Individual Income Tax: Every person who is a resident of Wisconsin and who has gross income of more than a certain amount is subject to Wisconsin income taxes, regardless of where the income is earned.

A person who is a nonresident of Wisconsin is subject to Wisconsin income taxes if he or she has gross income of \$2,000 or more from personal services performed in Wisconsin or from business or property in Wisconsin.

For more information, write to: Wisconsin Department of Revenue, PO Box 8949, Madison WI 53708-8949.

Corporation Income or Franchise Tax: Every corporation organized under the laws of Wisconsin or licensed to do business in Wisconsin (except certain organizations exempt under sec. 71.26(1), Wis. Stats.) is required to file a Wisconsin corporate franchise or income tax return, regardless of whether or not business was transacted. Unlicensed corporations are also required to file returns for each year they do business or have certain business activities in Wisconsin.

For more information, write to: Wisconsin Department of Revenue, PO Box 8906, Madison WI 53708-8906.

Withholding: If an employer has employees in Wisconsin, the employer may be required to withhold Wisconsin income taxes from the employees' wages. An employer required to withhold must apply for a withholding registration certificate from the department.

For more information, write to: Wisconsin Department of Revenue, PO Box 8902, Madison WI 53708-8902.

Estimated Tax for Individuals: Estimated income tax payments are required if you expect to owe \$200 or more of income tax with your income tax return. The estimated tax requirement applies to full-year residents, part-year residents, and nonresidents. An interest charge may be imposed if you fail to make these payments.

For more information, write Wisconsin Department of Revenue, Mail Stop 3-138, PO Box 8906, Madison WI 53708-8906 or call any department office. The Madison office telephone number is (608) 266-9941.

Estimated Tax for Corporations: Corporations must make estimated income or franchise tax payments if their current year tax liability will be \$500 or more, unless they owed no tax for the previous twelve-month tax year.

For more information, write Wisconsin Department of Revenue, Mail Stop 3-138, PO Box 8906, Madison WI 53708-8906 or call any department office. The Madison office telephone number is (608) 266-0800.

Unemployment and Worker's Compensation: For more information on these taxes write to: Wisconsin Department of Workforce Development, PO Box 7901, Madison, WI 53708-7901.

Motor Vehicle Alternate Fuel Tax: An alternate fuel tax is imposed on all compressed natural gas (CNG) fuel or liquid propane (LPG) placed into the supply tank of a motor vehicle. If you purchase CNG or LPG for heating and use this fuel in your truck or automobile, you must obtain an Alternate Fuel Users License and pay the tax directly to the Department of Revenue.

If you sell or purchase alternate fuel and have questions about the alternate fuel tax, write to: Wisconsin Department of Revenue, Mail Stop 5-107, PO Box 8906, Madison Wisconsin 53708-8900.

Local Exposition Taxes: Persons selling lodging, food, or beverages or renting automobiles in municipalities located wholly or partially in Milwaukee County are subject to local exposition taxes. For more information, obtain Wisconsin Publication 410, "Local Exposition Taxes," from any Department of Revenue office.

Dry Cleaner Fees: Any person operating a dry cleaning facility in Wisconsin is subject to dry cleaning fees. Dry cleaner fees are due in installments payable on or before April 25, July 25, October 25, and January 25. The amounts must be equal to 1.8% of the previous three months' gross receipts from dry cleaning apparel and household fabrics, but not from formal wear that the facility rents to the general public. In addition, a fee of \$5 per gallon of perchloroethylene sold, and \$0.75 per gallon of any other dry cleaning product sold, is imposed.

For more information, contact the Department of Revenue in Madison as provided in Part XXII of this publication.

Premier Resort Area Taxes: Persons selling tangible personal property or taxable services in the Village of Lake Delton and the City of Wisconsin Dells are subject to the 0.5% premier resort area tax on such sales if the persons are classified in the Standard Industrial Classification manual (1987 Edition) under certain tourist related industry numbers. For more information, obtain Publication 403, "Premier Resort Area Taxes," from any Department of Revenue office. **Note:** Effective January 1, 2003 a Premier Resort Area Tax is imposed in the City of Bayfield.

Rental Vehicle Fee: Persons primarily engaged in the business of short-term rentals of vehicles without drivers are subject to a 3% rental vehicle fee on rentals in Wisconsin of Type 1 automobiles, station wagons, mobile homes, motor homes, and camping trailers for periods of 30 days or less.

Persons providing limousines with drivers in Wisconsin are subject to a 5% limousine fee.

Refer to Wisconsin Publication 202, "Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs," for more information. If you have questions about the rental vehicle fee or limousine fee, write or call the Wisconsin Department of Revenue, PO Box 8902, Madison WI 53708-8902 (telephone (608) 266-2776).

XXI. KEEPING AWARE OF NEW SALES AND USE TAX DEVELOPMENTS

If you are required to file sales and use tax returns, you should be aware of changes in the tax laws, new interpretations, and court cases which may affect how you file returns and compute the tax. Informational type aids available to you include:

Sales and Use Tax Report

The *Sales and Use Tax Report* is published one or more times each year by the Department of Revenue, and is mailed without charge to all persons holding a seller's permit or use tax certificate. It includes general information about sales and use tax, including new tax laws enacted by the legislature.

Publications

You may obtain the following sales and use and other local tax publications from any Department of Revenue office or at www.dor.state.wi.us/html/taxpubs.html.

No.	Title
200	Electrical Contractors
202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs
203	Sales and Use Tax Information for Manufacturers
205	Do You Owe Wisconsin Use Tax? (Individuals)
206	Sales Tax Exemption for Nonprofit Organizations
207	Sales and Use Tax Information for Contractors
210	Sales and Use Tax Treatment of Landscaping Services
211	Sales and Use Tax Information for Cemetery Monument Dealers
214	Do You Owe Wisconsin Use Tax? (Businesses)
216	Filing Claims for Refund of Sales or Use Tax
217	Auctioneers
219	Hotels, Motels, and Other Lodging Providers
220	Grocers
221	Farmers and Farm Suppliers
222	Motor Vehicle Fuel Users - Do You Owe Use Tax?
223	Bakeries
224	Veterinarians
225	Beauty and Barber Shops
226	Golf Courses
227	E-file Sales Tax Returns
229	Brackets for Collecting Wisconsin Sales or Use Tax Paid on Retail Sales
403	Premier Resort Area Tax
410	Local Exposition Taxes

Wisconsin Tax Bulletin

The *Wisconsin Tax Bulletin* is a quarterly publication of the Department of Revenue which is distributed to those persons who have purchased a subscription. The Bulletin includes information on most taxes administered by the Department of Revenue, including sales and use, income, franchise, and excise taxes. It includes up-to-date information on new tax laws, interpretations of existing laws, and information on filing returns. It gives a brief excerpt of major Wisconsin tax cases decided by the Wisconsin Tax Appeals Commission and the courts. A subscription costs \$7 per year.

Rules - Wisconsin Administrative Code

The *Wisconsin Administrative Code* includes administrative rules that interpret the Wisconsin Statutes. Rules have the force and effect of law. The Department of Revenue has adopted a number of rules pertaining to sales and use tax. A list of sales and use tax rules is found on page 51 (Appendix B).

A subscription and update service, which provides all new Department of Revenue rules and changes to existing rules, may be purchased from Department of Administration Document Sales.

Topical and Court Case Index

The *Topical and Court Case Index* is a two-part index. The first part (a Topical Index) will help you find the particular Wisconsin statute, administrative rule, Wisconsin Tax Bulletin tax release, publication, private letter ruling, or Attorney General opinion that deals with your particular tax question. The second part of the index (a Court Case Index) lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions relating to your question.

The *Topical and Court Case Index* costs \$18 (plus sales tax). The index is published each December with an addendum to the index provided each May.

Note: The *Wisconsin Tax Bulletin*, *Administrative Code*, and *Topical and Court Case Index* may be ordered from the Department of Administration, Document Sales, PO Box 7840, Madison WI 53707-7840.

XXII. DO YOU HAVE QUESTIONS OR NEED ASSISTANCE?

If you have a question about sales and use taxes, write to the department in Madison or call or visit any department office.

Write . . . Wisconsin Department of Revenue
Mail Stop 5-77
PO Box 8902
Madison, WI 53708-8902

Fax . . . (608) 267-1030

E-Mail . . . sales10@dor.state.wi.us

Visit our web site . . . www.dor.state.wi.us

Call Or Stop In . . .

Offices Providing Daily Assistance (Monday-Friday)

Location	Address	Telephone
Appleton	265 W. Northland	(920) 832-2727
Eau Claire	718 W. Clairemont	(715) 836-2811
Madison	2135 Rimrock Rd.	(608) 266-2776
Milwaukee	819 N. Sixth St.	(414) 227-4444

The above offices providing assistance daily are open 7:45 a.m. to 4:30 p.m. The offices listed below generally are open on Monday only from 7:45 a.m. to 1:00 p.m., although offices in Green Bay, Kenosha, Racine, and Waukesha are open on additional mornings. Contact that office for specific hours.

Other Offices Providing Assistance

Location	Address	Telephone
Baraboo	1000 Log Lodge Ct	(608) 356-8973
Beaver Dam	220 Seippel Blvd	(920) 356-6090
Elkhorn	715 W. Walworth St	(262) 723-4098
Fond du Lac	845 S. Main St.	(920) 929-3985
Grafton	1930 Wisconsin Ave.	(262) 375-7948
Green Bay	200 N. Jefferson St.	(920) 448-5179
Hayward	100 Ranch Road	(715) 634-8478
Hudson	1810 Crestview Dr.	(715) 381-5060
Janesville	101 E. Milwaukee	(608) 758-6190
Kenosha	4003 80th St	(262) 697-5860
La Crosse	620 Main St.	(608) 785-9720
Lancaster	130 W. Elm	(608) 723-2641
Marinette	1926 Hall Ave.	(715) 732-7565

Other Offices Providing Assistance

Location	Address	Telephone
Oshkosh	515 S. Washburn	(920) 424-2100
Racine	616 Lake Ave.	(262) 638-7500
Rhineland	203 Schiek Plaza	(715) 365-2666
Rice Lake	11 E. Eau Claire St.	(715) 234-7889
Sheboygan	807 Center Ave.	(920) 459-3101
Superior	1225 Tower Ave.	(920) 459-3101
Tomah	203 E. Clifton St	(608) 372-3256
Waukesha	141 NW Barstow	(262) 521-5310
Wausau	710 Third St.	(715) 842-8665
Wisconsin Rapid	830 Airport Ave	(715) 421-0500

**XXIII. BUSINESS DEVELOPMENT
ASSISTANCE – DEPARTMENT
OF COMMERCE PERMIT
INFORMATION CENTER**

If you have questions about what other permits may be needed for your business, or need assistance in obtaining a permit, call the Permit Information Center at 1-800-HELPBUS (435-7287).

SALES AND USE TAX FORMS

The forms and certificates listed below pertain to Wisconsin sales and use taxes. The number in parenthesis after the title is the form number. Copies of these forms may be obtained from any Department of Revenue office, by calling (608) 266-1961, from the Department of Revenue's Internet site at www.dor.state.wi.us or by writing Wisconsin Department of Revenue, PO Box 8903, Madison, WI 53708-8903.

I. SALES/USE TAX RETURNS FILED WITH DEPARTMENT OF REVENUE OR ANOTHER STATE AGENCY

- **Wisconsin Sales and Use Tax Return** – Form ST-12 (S-012) - filed by a person who has a seller's permit, use tax certificate or consumer's use tax certificate. Also used as an amended return to correct an error on a Form ST-12 previously filed with the Department of Revenue.
- **Consumer Use Tax Return** - Form UT-5 (SU-050) - filed with Department of Revenue by a person who is not required to be registered for consumer's use tax.
- **Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes** (S-220) - filed with the Department of Revenue by a person who paid sales or use tax in error to a seller.
- **Aircraft Registration Application** (DT-1556) - filed with Department of Transportation by a Wisconsin aircraft dealer and by a person who purchases an airplane from someone who is not a dealer or from a seller located outside Wisconsin.
- **Application For Title/Registration** (MV-1) - filed with Department of Transportation by a Wisconsin motor vehicle dealer, and by a person who purchases a motor vehicle, mobile home, trailer, or semitrailer from a person who is not a Wisconsin dealer, as evidence that state and/or county sales tax has been paid or that the vehicle is exempt from tax.
- **Application for Title/Registration** (9400-193, 9400-210 and 9400-376) - filed with Department of Natural Resources by a person who purchases a boat, snowmobile, or all-terrain vehicle from someone who is not a dealer, or from a seller located outside Wisconsin.

II. EXEMPTION CERTIFICATES GIVEN TO SELLER BY BUYER

- **Wisconsin Sales and Use Tax Exemption Certificate** (S-211) - used by a buyer when purchasing property or services which are for resale or for which are exemption applies.

Note: Form S-211 is an expanded exemption certificate that replaces Forms S-016, S-017, S-205, S-206, S-207, S-207m, and S-209. Although these forms are no longer printed and distributed by the department, they are still valid as proof of exempt sales if properly completed and taken in good faith.

- **Construction Contract Entered Into Before Effective Date of County Tax** (S-207CT) - used by buyer (contractor) when purchasing materials under a written contract entered into prior to the date the county tax went into effect, allowing the buyer to purchase the materials without the 0.5% county sales tax.

III. OTHER FORMS

- **Application for Business Tax Registration** (BTR-101) - filed by a person applying for a seller's permit, use tax certificate, consumer's use tax certificate or employer's withholding registration.
- **Application for Certificate of Exempt Status** (S-103) - filed by a federal or Wisconsin governmental unit or a nonprofit religious, charitable, scientific, or educational organization which qualifies to purchase items exempt from tax.
- **Seller's Permit** - issued by Department of Revenue to a person who has been approved as a seller of tangible personal property or taxable services.
- **Use Tax Registration Certificate** (S-201U) - issued by Department of Revenue to a person (usually an out-of-state retailer) who conducts business activities in Wisconsin but is not otherwise registered for sales or use tax.
- **Sales and Use Tax Clearance Certificate** - issued by Department of Revenue to a purchaser (successor) of a business certifying that the seller of the business owes no sales and use tax.

SALES AND USE TAX RULES - WISCONSIN ADMINISTRATIVE CODE

APPENDIX B

Listed below are sales and use tax rules in effect as of November 1, 2002. The Wisconsin Administrative Code of the Department of Revenue and a subscription update service may be purchased by writing to: Wisconsin Department of Administration, Document Sales, Box 7840, 202 South Thornton Avenue, Madison, WI 53707-7840, telephone (608) 266-3358. Copies of individual sales and use rules may be obtained from any Department of Revenue office or are available for viewing on the Revisor of Statutes web page at www.legis.state.wi.us/rsb/code/tax/tax011.pdf.

General Provisions

- Tax 11.001 Forward and definitions
- Tax 11.002 Registration
- Tax 11.01 Sales and use tax return forms

Exempt Entities

- Tax 11.03 Schools and related organizations
- Tax 11.04 Constructing buildings for exempt entities
- Tax 11.05 Governmental units

Exemptions

- Tax 11.08 Medical appliances, prosthetic devices and aids
- Tax 11.09 Medicines
- Tax 11.11 Industrial or governmental waste treatment facilities
- Tax 11.12 Farming, agriculture, horticulture and floriculture
- Tax 11.13 Direct pay
- Tax 11.14 Exemption certificates
- Tax 11.15 Containers and other packaging and shipping materials
- Tax 11.16 Common or contract carriers
- Tax 11.17 Hospitals, clinics and medical professions
- Tax 11.18 Dentists and their suppliers
- Tax 11.19 Printed material exemptions

Gross Receipts

- Tax 11.26 Other taxes in taxable gross receipts and sales price
- Tax 11.27 Insurance and warranties
- Tax 11.28 Gifts and other advertising specialties
- Tax 11.29 Leases and rentals of tangible personal property
- Tax 11.30 Credit sales, bad debts and repossessions
- Tax 11.32 "Gross receipts" and "sales price"

Occasional Sales

- Tax 11.33 Occasional sales
- Tax 11.34 Occasional sales exemption for sale of a business or business assets
- Tax 11.35 Occasional sales by nonprofit organizations

Manufacturers and Producers

- Tax 11.38 Fabricating and processing
- Tax 11.39 Manufacturing
- Tax 11.40 Exemption of machines and processing equipment
- Tax 11.41 Exemption of property consumed or destroyed in manufacturing

Types of Retailers

- Tax 11.45 Sales by pharmacies and drug stores
- Tax 11.46 Summer camps
- Tax 11.47 Commercial photographers and photographic services
- Tax 11.48 Landlords, hotels and motels
- Tax 11.49 Service stations and fuel oil dealers
- Tax 11.50 Auctions

- Tax 11.51 Grocers' guidelist
- Tax 11.52 Coin-operated vending machines and amusement devices
- Tax 11.53 Temporary events
- Tax 11.535 Operators of a swap meet, flea market, craft fair or similar event
- Tax 11.54 Temporary amusement, entertainment, or recreational events or places
- Tax 11.55 Agents, consignees, lienors and brokers
- Tax 11.56 Printing industry
- Tax 11.57 Public utilities

Service Enterprises

- Tax 11.61 Veterinarians and their suppliers
- Tax 11.62 Barbers and beauty shop operators
- Tax 11.63 Radio and television stations
- Tax 11.64 Background music
- Tax 11.65 Admissions
- Tax 11.66 Telecommunication and CATV services
- Tax 11.67 Service enterprises
- Tax 11.68 Construction contractors
- Tax 11.69 Financial institutions
- Tax 11.70 Advertising agencies
- Tax 11.71 Computer industry
- Tax 11.72 Laundries, dry cleaners, and linen and clothing suppliers

Types of Tangible Personal Property

- Tax 11.78 Stamps, coins and bullion
- Tax 11.79 Leases of highway vehicles and equipment
- Tax 11.80 Sales of ice
- Tax 11.81 Industrial gases, welding rods and fluxing materials
- Tax 11.82 Mailing lists and mailing services
- Tax 11.83 Motor vehicles
- Tax 11.84 Aircraft
- Tax 11.85 Boats, vessels and barges
- Tax 11.86 Utility transmission and distribution lines
- Tax 11.87 Meals, food, food products and beverages
- Tax 11.88 Mobile homes

Administrative Provisions

- Tax 11.91 Successor's liability
- Tax 11.92 Records and record keeping
- Tax 11.925 Sales and use tax security deposits
- Tax 11.93 Annual filing of sales tax returns
- Tax 11.94 Wisconsin sales and taxable transportation charges
- Tax 11.95 Retailer's discount
- Tax 11.96 Delivery of ordinance, county and premier resort area tax
- Tax 11.97 "Engaged in business" in Wisconsin
- Tax 11.98 Reduction of delinquent interest rate under s. 77.62 (1), Stats.

APPENDIX C

SECTION TAX 11.92 - RECORDS AND RECORD KEEPING

Tax 11.92 Records and record keeping. (1) **GENERAL.** All persons selling, leasing or renting tangible personal property or taxable services and every person storing, using or otherwise consuming in Wisconsin tangible personal property or taxable services shall keep adequate and complete records so that they may prepare complete and accurate tax returns. These records shall include the normal books of account ordinarily maintained by a prudent business person, together with all supporting information such as beginning and ending inventories, records of purchases and sales, cancelled checks, bills, receipts, invoices which shall contain a posting reference, cash register tapes, credit memoranda which shall carry a reference to the document evidencing the original transaction or other documents of original entry which are the basis for the entries in the books of account, and schedules used in connection with the preparation of tax returns. These records shall show:

(a) The gross receipts from sales of tangible personal property or taxable services, or rentals or leases of tangible personal property, including any services that are a part of the sale or lease, made within Wisconsin even if the seller or lessor regards the receipts as taxable or nontaxable. Taxable gross receipts shall be reported on the accrual basis, except when the department is satisfied that an undue hardship would exist and authorizes reporting on some other basis.

(b) The basis for all deductions claimed in filing returns, including resale and exemption certificates obtained from customers. Exempt sales to governmental units and public schools need not be supported by exemption certificates, if the supplier retains a copy of the exempt entity's purchase order and the supplier's invoice or billing document. Sales to organizations holding a certificate of exempt status, CES, including religious or charitable organizations, can be shown to be exempt by recording the CES number on the seller's copy of the bill of sale. All other exempt sales shall be supported by an exemption certificate signed by the purchaser and retained by the seller, unless the merchandise sold is specifically exempted by statute regardless of use, such as groceries. Documents necessary to support claimed exemptions from tax liability, such as bills of lading and purchase orders, shall be maintained in a manner in

which they readily can be related to the transaction for which exemption is sought.

(c) Total purchase price of all tangible personal property or taxable services purchased for sale or consumption or lease in Wisconsin.

(d) Every person subject to the county sales and use tax shall keep a record of sales the person completes in each county enacting an ordinance under s. 77.70, Stats., imposing a county tax, separately from sales made elsewhere in the state. Every person shall also keep a record of the sales price of items on which the person is subject to county use or excise tax in each enacting county.

(2) **MICROFILM RECORDS.** Microfilm, including microfiche, reproductions of general books of account, such as cash books, journals, voucher registers and ledgers, and supporting records of detail shall be acceptable if the following conditions are met:

(a) Appropriate facilities are provided for preservation of the films for periods required.

(b) Microfilm rolls are indexed, cross referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included and are systematically filed.

(c) Transcriptions are provided for any information contained on microfilm which may be required for purposes of verification of tax liability.

(d) Proper facilities are provided for the ready inspection and location of the particular records, including adequate projectors for viewing and copying the records.

(3) **RECORDS PREPARED BY AUTOMATED DATA PROCESSING (ADP) SYSTEMS.** An automatic data processing, ADP, tax accounting system shall have the capability of producing visible and legible records which will provide the following necessary information for verification of the taxpayer's tax liability:

(a) *Recorded or reconstructible data.* ADP records shall provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the

time they are processed, then the system must have the ability to readily reconstruct these transactions.

(b) *General and subsidiary books of account.* A general ledger, with source references, shall be written out to coincide with financial reports for tax reporting periods. Where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers shall also be written out periodically.

(c) *Audit trail and supporting documents.* The audit trail shall be designed so that the details underlying the summary accounting data may be identified and made available to the department upon request. The record keeping system should be so designed that supporting documents, such as sales invoices, purchase invoices, exemption certificates and credit memoranda, shall be readily available.

(d) *Program documentation.* A written description of the ADP portion of the accounting system shall be available. Important changes, together with their effective dates, shall be noted in order to preserve an accurate chronological record. The statements and illustrations as to the scope of operations shall be sufficiently detailed to indicate:

1. The application being performed.
2. The procedures employed in each application.
3. The controls used to ensure accurate and reliable processing.

(4) **RECORDS RETENTION.** The records shall be preserved and retained for the 4-year period open to audit under s. 77.59 (3), Stats. If any agreement is entered into to extend the 4-year audit period, the records shall be

preserved for that extended period. If a notice of tax determination has been issued to the taxpayer by the department and if the taxpayer files a petition for redetermination, the records for the period covered by the notice of the tax determination shall be preserved and retained until the tax redetermination has been finally resolved.

(5) **EXAMINATION OF RECORDS.** All records described in this section shall be made available for examination by the department at its request.

(6) **FAILURE TO MAINTAIN RECORDS.** In the absence of suitable and adequate records, the department may determine the amount of tax due by using any information available, whether obtained from the taxpayer's records or from any other source. Failure to maintain and keep complete and accurate records may result in penalties or other appropriate action provided by law

(7) **PENALTIES.** If the department has given notice to a person to keep certain sales and use tax records, and thereafter additional sales or use taxes are assessed on the basis of information not contained in the records, the department shall impose a penalty equal to 25% of the amount of sales or use tax assessed. This is in addition to all other penalties provided by law

Note: Section Tax 11.92 interprets ss. 77.51 (4) (d), 77.52 (13), 77.60 (8), 77.61 (4) (a) and (9) and 77.75, Stats.

Note: The interpretations in this s. Tax 11.92 are effective under the general sales and use tax law on and after September 1, 1969, except that the 25% penalty in sub. (7) became effective July 20, 1985, pursuant to 1985 Wis. Act 29.

History: Cr. Register, July, 1977, No. 259, eff. 8-1-77; emerg. cr. (1) (d), eff. 3-24-86; cr. (1) (d), Register, October, 1986, No. 370, eff. 11-1-86; am. (1) (intro.), (a), (b) and (c), (2) (intro.), (3) (intro.) and (c) and (4), cr. (7), Register, June, 1991, No. 426, eff. 7-1-91.

SECTION TAX 11.14 - EXEMPTION CERTIFICATES

Tax 11.14 Exemption certificates. (1) **STATUTES.** The sales tax status of exemption certificates is contained in s. 77.52 (13) to (17), Stats., and the use tax status of exemption certificates is contained in s. 77.53 (10) to (13), Stats.

(2) **GENERAL.** (a) Exemption certificates are signed by purchasers or lessees and are given to sellers or lessors to verify that a transaction is exempt. Sellers and lessors shall exclude from taxable gross receipts transactions for which they have accepted a valid exemption certificate in good faith from a purchaser. The department has provided retailers with the following 2 sales and use tax exemption certificates:

1. Wisconsin sales and use tax exemption certificate, form S-211. This is a multipurpose form which may be used for any sales and use tax exemption provided by law, except as provided in sub. (14). For direct pay, form S-211 may be used as the document described in s. Tax 11.13(5)(a)2. if all of the required information is included on the form S-211.

2. Construction contract entered into before the effective date of county/stadium tax, form S-207CT-1. This is a certificate which may be used by a contractor to purchase building materials without a county or stadium tax under the circumstances described in sub. (13).

(b) Use of an exemption certificate designed by the department is not required by law. A person may use a substitute exemption certificate if it contains all the essential information relating to the transaction and if it is in a form approved by the department. The law requires that the certificate be signed by and bear the name and address of the purchaser and that it indicate the general character of the property or service being purchased and the basis of the claimed exemption.

(c) If a purchaser certifies in writing by using an exemption certificate that the property purchased will be used for activities or under circumstances which make the purchase of the property exempt from the sales tax or for resale, and the property is subsequently used in a manner that makes the property ineligible for exemption from tax, the purchaser shall pay the sales tax.

(3) **EFFECT OF OBTAINING CERTIFICATE.** (a) A seller is relieved of liability for the tax if the seller takes from the purchaser a valid, written exemption certificate which certifies that the purchaser will use the property or service in a manner or for a purpose entitling the seller to accept the certificate in good faith.

(b) To be valid, an exemption certificate shall upon its face disclose a proper basis for exemption. The use of phrases such as "nontaxable," "exempt" or similar terminology do not provide a proper basis for an exemption. A certificate shall be properly executed and dated and shall contain all the necessary

information. A certificate claiming an exemption not provided by law is not valid.

Note: All retailers should be familiar with the instructions contained in an exemption certificate.

(c) If a certificate is valid, a seller or lessor who accepts the certificate in good faith is relieved of any liability for collection or payment of tax upon transactions covered by the certificate. For good faith to be shown, the certificate may contain no statement or entry which the seller or lessor knows, or has reason to believe, is false or misleading. The question of good faith is one of fact and depends upon a consideration of all the conditions surrounding the transaction. If the seller accepts a certificate with knowledge which gives rise to a reasonable inference that the purchaser does not intend to use the item or service as claimed, the good faith of the seller will be questioned. The seller is presumed to be familiar with the law and rules of the department relating to the business or businesses in which the seller is involved.

(4) **FAILURE TO OBTAIN CERTIFICATE.** If a seller does not obtain a certificate, a seller is not relieved from liability for the tax, nor from the burden of proving the sale was for resale or otherwise exempt. It is not a satisfactory substitute for obtaining an exemption certificate from the purchaser, for the seller to accept payment of the seller's billing with the tax or tax reimbursement deleted, or to accept the purchaser's permit number, or a statement that the transaction is not taxable.

(5) **CONTINUOUS CERTIFICATES.** (a) Continuous exemption certificates do not expire and need not be renewed at any prescribed interval. However, they should be renewed at reasonable intervals in case of a business change, registration number change or discontinuance of the specific business claiming the exemption. The seller should periodically review exemption certificates on file to ascertain that the person claiming the exemption is the person who furnished the certificate.

(b) Continuous exemption certificates approved by the department do not allow a purchaser to issue "this time only" purchase orders cancelling the continuous tax exemption certificate for the one transaction only. The notation "taxable" on a purchase order is not sufficient to relieve a purchaser of the responsibility for a previously issued continuous certificate. The seller is not liable for the tax on transactions covered by a valid exemption certificate, unless the purchase order is accompanied by a separate letter explaining the inapplicability of the previously issued certificate to a particular order.

(6) **RESALE.** (a) *Effect of obtaining exemption certificate claiming resale.* 1. The burden of proving that a sale of property or services is not at retail is upon the seller unless the seller accepts a certificate from the purchaser certifying that the property is purchased for resale. If valid and accepted in

good faith from a person who is in the business of selling tangible personal property or taxable services and who holds a seller's permit, the certificate relieves the seller from liability for the sales tax and the duty of collecting the use tax.

2. If a purchaser gives an exemption certificate claiming resale for property acquired and then makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first stored or used. The use tax shall be reported and paid by the purchaser with the tax return for the period in which the property is first so stored or used.

(b) *Contents of exemption certificates claiming resale.* An exemption certificate claiming resale shall contain the following information for the seller to be relieved from the burden of proving the sale of property or services was not a taxable sale:

1. The name and address and the signature of the purchaser.

2. A description of the general character of the tangible personal property or service sold by the purchaser.

3. A general description of the property or service purchased for resale if a "continuous" exemption certificate is used, or an itemization of the property or service purchased if a "single purchase" certificate is used.

4. The seller's permit number of the purchaser, except that:

a. A wholesaler who sells only to other sellers for resale may insert "wholesale only" in the space for a seller's permit number.

b. A person registered as a seller in another state, who makes no retail sales in Wisconsin, may insert the name of the state in which registered and the permit number issued to the person by that state.

c. A person who makes exempt sales only in the regular course of business may insert the words "exempt sales only" in the space for a seller's permit number.

5. An indication of the general character of the purchaser's business. This is for the protection of the seller, since it may enable the seller to determine whether a particular type of property or service may be sold without collecting the tax. If the nature of the business described is such that the property or services purchased normally would not be resold, the seller should question the purchaser's reason for issuing the certificate. If a satisfactory answer cannot be provided, the certificate should not be accepted. If all of these conditions are met, the seller is relieved from the burden of proving that the sale of property or services was not a taxable sale.

Example: A "continuous" exemption certificate claiming resale describing a business as a "tavern" normally should not be accepted for the sale of a radio, camera, auto part or other item not regularly sold by taverns.

(7) **MANUFACTURING EXEMPTION.** (a) A supplier which accepts a properly completed exemption certificate claiming a manufacturing exemption in good faith marked for "continuous" use may make sales to the manufacturer without collecting the tax if the nature of the property or services sold qualifies for one of the exempt uses claimed by the manufacturer on the form. If an exemption certificate is a "continuous" form, each purchase order of the manufacturer shall refer to it. If an individual order contains both exempt and non-exempt purchases, the purchaser shall designate which items are taxable.

(b) If the manufacturer uses "single purchase" certificates, it may print these as an integral part of its purchase orders, as long as the essential information on the approved form is retained.

(8) **FARMER'S EXEMPTION.** A retailer shall have a signed exemption certificate for every exempt sale made to a farmer.

Note: Section Tax 11.12 describes the types of property which may be sold to farmers without tax, and the use of the exemption certificate to claim farming exemptions.

(9) **EXEMPTION FOR FUEL OIL, PROPANE, COAL, STEAM AND WOOD FOR FUEL FOR RESIDENTIAL OR FARM USE.** A retailer shall have a signed exemption certificate if the sale of fuel oil, propane, coal, steam or wood for residential or farm use is partially exempt from sales or use tax. If the sale is 100% exempt, an exemption certificate is not required.

(10) **EXEMPTION FOR ELECTRICITY AND NATURAL GAS SOLD FOR RESIDENTIAL OR FARM USE.** A retailer of electricity or natural gas shall have a signed exemption certificate for all sales of electricity or natural gas for residential or farm use which are exempt from sales or use tax unless any, or all, of the following apply:

(a) 100% of the electricity or natural gas is for exempt use.

(b) The sale is to an account which is properly classified as residential or farm pursuant to schedules which are filed for rate tariff with the Wisconsin public service commission which are in force at the time of the sale.

(c) The sale is to an account which is properly classified as residential or farm for classification purposes as directed by the federal rural electrification administration.

(11) **GOVERNMENT SALES AND USE TAX EXEMPTION.** (a) A retailer of tangible personal property or taxable services may accept from a federal or Wisconsin governmental unit an exemption certificate as proof that a sale is exempt from sales or use tax.

(b) In lieu of accepting an exemption certificate as provided in par. (a) a retailer may accept either one of the following:

1. A purchase order or similar written document from the governmental unit identifying itself as the purchaser.

2. A verbal indication of the governmental unit's certificate of exempt status, or CES, number, which the retailer shall record on the copy of the invoice it retains.

(12) OTHER EXEMPTIONS. The Wisconsin sales and use tax exemption certificate, form S-211, may also be used for any other sales and use tax exemption provided by law, including the following:

(a) Containers and other packaging, packing and shipping materials used to transfer merchandise to customers of the purchaser.

(b) Tangible personal property becoming an ingredient or component part of an article of tangible personal property in any form destined for sale.

(c) Trailers or accessories, attachments, parts, supplies, materials and service on motor trucks, tractors and trailers which are used exclusively in common or contract carriage.

(d) Property or services purchased directly by and used by a religious, charitable, educational, scientific or other organization or governmental unit holding a certificate of exempt status, CES. Sales to organizations holding a CES also can be shown to be exempt by a retailer's recording the certificate number on its bill of sale. A corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, which is located out-of-state, may use the Wisconsin sales and use tax exemption certificate, form S-211, to purchase without tax even though it has not been issued a Wisconsin certificate of exempt status.

(e) Railway cars, locomotives and other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants or fuel therefor.

(f) Commercial vessels and barges of 50-ton burden or over engaged in interstate or foreign commerce or commercial fishing, and accessories, attachments, parts and fuel therefor.

(13) CONSTRUCTION CONTRACTS ENTERED INTO BEFORE THE EFFECTIVE DATE OF A COUNTY OR STADIUM TAX. (a) The certificate for a construction contract entered into before the effective date of a county tax, or a stadium tax as defined in s. Tax 11.001(4), form S-207CT-1, is used by contractors to purchase building materials without the county or stadium tax. The certificate shall be used by a contractor only if the following 3 conditions are met:

1. The contractor entered into a written contract or made a formal bid before the effective date of the county or stadium tax to construct, alter, repair or improve real estate for another person.

2. The written contract is for a fixed price that cannot be changed or the formal written bid cannot be altered or withdrawn.

3. The building materials purchased on or after the effective date of the county or stadium tax are affixed and made a part of real estate in fulfilling the written contract or formal written bid.

(b) The certificate shall give the descriptive name of the contract, job site, county or stadium tax effective date, date of prime contract and bid, date contract was signed, seller's name, date of performance of the contract and contractor's name and address and shall be signed by the contractor.

(14) DIRECT PAY PERMITS. The use of direct pay permits in Wisconsin is authorized under s. 77.52(17m), Stats. A person may apply to the department for a direct pay permit.

Note: For information on who qualifies for a direct pay permit and how to use direct pay, refer to s. Tax 11.13.

(15) IMPROPER USE OF CERTIFICATES. A purchaser who gives an exemption certificate knowing at the time that the transaction is not exempt may be guilty of a misdemeanor under s. 77.52 (16), Stats. The purchaser may also be liable for other penalties provided by law for filing incorrect returns.


(16) CERTAIN COMMODITIES. No exemption certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the U.S. commodity futures trading commission if upon the sale the commodity is not removed from the warehouse.

Note: Section Tax 11.14 interprets ss. 77.52 (13) to (17), 77.53 (10) to (13) and 77.77 (3), Stats.

Note: The interpretations in s. Tax 11.14 are effective under the general sales and use tax law on and after September 1, 1969, except: (a) The exemption for railroad lubricants became effective July 1, 1978, pursuant to Chapter 418, Laws of 1977; (b) The use of direct pay permits in Wisconsin became effective for taxable years beginning on or after January 1, 1995, pursuant to 1993 Wis. Act 437; (c) The elimination of the exemption certificate requirement for sales of certain consigned commodities became effective December 1, 1997 as it relates to sales taxes on commodities consigned for resale, pursuant to 1997 Wis. Act 27, and June 17, 1998 as it relates to sales and use taxes on commodities consigned for sale, pursuant to 1997 Wis. Act 237; and (d) The multipurpose exemption certificate, form S-211, was created in November 1998 to replace various types of exemption certificates.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (7) (a), Register, June, 1983, No. 330, eff. 7-1-83; cr. (2) (c) and am. (10), Register, July, 1987, No. 379, eff. 8-1-87; cr. (2) (a) 5. and 6., (10), (11) and (14), am. (2) (a), (5) (b), (6) (b) (intro.) and 5., (7) (a) (intro.) and 4. and 5., (8) (a) and (9), renum. (10) and (11) to be (12) and (13) and am., Register, March, 1991, No. 423, eff. 4-1-91; am. (2)(c), (3)(b) and (c), (6)(b)4., r. and recr. (12), Register, June, 1995, No. 474, eff. 7-1-95; renum. (12), (13) and (14) to be (13), (14) and (15), am. (2)(a)(intro.), cr. (2)(a)7. and (12), Register, October, 1997, No. 502, eff. 11-1-97; am. (1) (c), (3) (a) and (b), (5) (b), (6) (a) 2., (b), 3., r. and recr. (2) (a) 1. and 2., cr. (6) (b) 4. c. and (16), r. (2) (a) 3. to 7., (7) (b), (10) (b), (11) (b) and (12) (b) 1., renum. (7) (a) 1. to 6. to be (12) (a) to (f) and am. (12) (d), renum. (8) to (10) (a) to be (7) to (9) and am. (7) (a), (8) and (9), renum. (11) (a) 1. to 3. to be (10) (a) to (c), renum. (12) (a) to be (11) (a) and am., renum. (12) (b) 2. and 3., (13), (14) and (15) to be (11) (b) 1. and 2., (13), (14) and (15) and am. (13) (a), 1. and 3. and (b), Register, August, 1999, No. 524, eff. 9-1-99.

WISCONSIN SALES AND USE TAX EXEMPTION CERTIFICATE

Check One 

☐ Single Purchase

☐ Continuous

Purchaser's Business Name	Purchaser's Address
---------------------------	---------------------

The above purchaser, whose signature appears on the reverse side of this form, claims exemption from Wisconsin state, county, baseball or football stadium, and premier resort sales or use tax on the purchase, lease, or rental of tangible personal property or taxable services, as indicated by the box(es) checked below.

I hereby certify that I am engaged in the business of selling, leasing, or renting: _____

(Description of Property or Services Sold by Purchaser)

General description of property or services purchased (itemize property purchased if "single purchase"): _____

Seller's Name	Seller's Address
---------------	------------------

PROPOSED EXEMPT USE

Resale _____ (Enter seller's permit or use tax certificate number)

Manufacturing

- ☐ Tangible personal property becoming an ingredient or component part, or which is consumed or destroyed or loses its identity, in the manufacture of tangible personal property destined for sale, but not including fuel or electricity, unless the fuel or electricity is consumed or destroyed or loses its identity in the manufacture of shoppers guides, newspapers, or periodicals, whether or not destined for sale.
- ☐ Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment.
- ☐ The repair, service, alteration, fitting, cleaning, painting, coating, towing, installation, and maintenance of machines and specific processing equipment, that the above purchaser would be authorized to purchase without sales or use tax, at the time the service is performed thereon. Tools used to repair exempt machines are not exempt.
- ☐ Portion of the amount of fuel converted to steam for purposes of resale. (Percent of fuel exempt _____%)

Farming (To qualify for this exemption, the purchaser must use item(s) exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture, or custom farming services.)

- ☐ Tractors (except lawn and garden tractors) and farm machines, including accessories, attachments, parts and repair service.
- ☐ Feed, seeds for planting, plants, fertilizer, soil conditioners, sprays, pesticides, and fungicides.
- ☐ Baling twine and baling wire.
- ☐ Breeding and other livestock, poultry, and farm work stock.
- ☐ Containers for fruits, vegetables, grain, hay, and silage (including containers used to transfer merchandise to customers), and plastic bags, sleeves, and sheeting used to store or cover hay and silage.
- ☐ Animal waste containers or component parts thereof (may only mark certificate as "Single Purchase").
- ☐ Animal bedding, medicine for farm livestock, and milk house supplies.
- ☐ All-terrain vehicles (ATV) used exclusively in farming, not licensed for public use.

**Federal and Wisconsin
Governmental Units**

Enter CES No., if applicable

- ☐ The United States and its unincorporated agencies and instrumentalities and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
- ☐ State of Wisconsin or any agency thereof; Local Exposition District, Professional Baseball Park District, or Professional Football Stadium District.
- ☐ Wisconsin county, city, village, or town, including public inland lake protection and rehabilitation district, municipal public housing authorities, uptown business improvement districts, local cultural arts district, and Fox River Navigational System Authority.
- ☐ Wisconsin public schools, school districts, universities, and technical college districts.
- ☐ County-city hospitals or UW Hospitals and Clinics Authority.
- ☐ Sewerage commission, metropolitan sewerage district, or a joint local water authority.

Other

- ☐ Containers and other packaging, packing, and shipping materials, used to transfer merchandise to customers of the purchaser.
- ☐ Trailers and accessories, attachments, parts, supplies, materials, and service for motor trucks, tractors, and trailers which are used exclusively in common or contract carriage under LC or IC No. _____.
- ☐ Items or services purchased directly by and used by religious, charitable, educational, scientific, or other organizations holding a Wisconsin Certificate of Exempt Status. CES No. _____.
- ☐ Tangible personal property to be resold by _____ on my behalf where _____ is registered to collect and remit sales tax to the Department of Revenue on such sales.
- ☐ Tangible personal property or services purchased by a Native American with enrollment # _____, who is enrolled with and resides on the _____ Reservation, where buyer will take possession of such property or services.
- ☐ Tangible personal property becoming a component of an industrial or municipal waste treatment facility, including replacement parts, chemicals, and supplies used or consumed in operating the facility.
- ☐ Portion of the amount of electricity or natural gas used or consumed in an industrial waste treatment facility. (Percent of electricity or natural gas exempt _____%)
- ☐ Electricity, natural gas, fuel oil, propane, coal, steam and wood used for fuel for residential or farm use.

	% of Electricity Exempt	% of Natural Gas Exempt	% of Fuel Exempt
<input type="checkbox"/> Residential	_____ %	_____ %	_____ %
<input type="checkbox"/> Farm	_____ %	_____ %	_____ %

Address Delivered: _____

- ☐ Percent of printed advertising material solely for out-of-state use. _____ %
- ☐ Other purchases exempted by law. (State items and exemption). _____
- _____
- _____
- _____

I hereby certify that if the item(s) being purchased are not used in an exempt manner, I will remit use tax on the purchase price at the time of first taxable use. I understand that failure to remit the use tax may result in a future liability that may include tax, interest, and penalty.

Authorized Signature

Title

Date

(DETACH AND PRESENT TO SELLER)

APPENDIX F

5% State Tax

(To be used if there are no county and stadium taxes)

Amount of Taxable Sale	State Tax Collectible
\$.01 to \$.09.....	0¢
.10 to .29.....	1¢
.30 to .49.....	2¢
.50 to .69.....	3¢
.70 to .89.....	4¢
.90 to 1.09.....	5¢

On sales in excess of \$1, the tax equals 5% of each full dollar of the sales price plus the tax shown above the applicable fractional part of a dollar.

5.5% State and County Tax

5.5% State and Football Stadium Tax

(To be used when the sale is subject to the 5% state tax and 0.5% county tax or 0.5% football stadium tax)

Amount of Taxable Sales	State and County or Football Stadium Tax Collectible
\$.01 to \$.09.....	0¢
.10 to .27.....	1¢
.28 to .45.....	2¢
.46 to .63.....	3¢
.64 to .81.....	4¢
.82 to .99.....	5¢
1.00 to 1.18.....	6¢
1.19 to 1.36.....	7¢
1.37 to 1.54.....	8¢
1.55 to 1.72.....	9¢
1.73 to 1.90.....	10¢
1.91 to 2.09.....	11¢

The state and county tax or football stadium tax equals 11¢ for each \$2 of sales, plus the tax shown above for the fractional part of \$2.

6% State, County, and Premier Area Resort Tax

(To be used when the sale is subject to the 5% state tax, 0.5% county tax, and the 0.5% premier resort area tax)

Amount of Taxable Sale	State and Premier Resort Area Tax
\$.01 to \$.08.....	0¢
.09 to .24.....	1¢
.25 to .41.....	2¢
.42 to .58.....	3¢
.59 to .74.....	4¢
.75 to .91.....	5¢
.92 to 1.08.....	6¢

On sales exceeding \$1.00, the tax equals 6¢ for each full dollar of sales, plus the tax shown above for the applicable fractional part of a dollar.

5.6% State, County, and Baseball Stadium Tax

(To be used when the sale is subject to the 5% state tax, 0.5% county tax, and 0.1% stadium tax)

Amount of Taxable Sale	State, County, and Baseball Stadium Tax Collectible
.01 to .08.....	0¢
.09 to .26.....	1¢
.27 to .44.....	2¢
.45 to .62.....	3¢
.63 to .80.....	4¢
.81 to .98.....	5¢
.99 to 1.16.....	6¢
1.17 to 1.33.....	7¢
1.34 to 1.51.....	8¢
1.52 to 1.69.....	9¢
1.70 to 1.87.....	10¢
1.88 to 2.05.....	11¢
2.06 to 2.23.....	12¢
2.24 to 2.41.....	13¢
2.42 to 2.58.....	14¢
2.59 to 2.76.....	15¢
2.77 to 2.94.....	16¢
2.95 to 3.12.....	17¢
3.13 to 3.30.....	18¢
3.31 to 3.48.....	19¢
3.49 to 3.66.....	20¢
3.67 to 3.83.....	21¢
3.84 to 4.01.....	22¢
4.02 to 4.19.....	23¢
4.20 to 4.37.....	24¢
4.38 to 4.55.....	25¢
4.56 to 4.73.....	26¢
4.74 to 4.91.....	27¢
4.92 to 5.08.....	28¢
5.09 to 5.26.....	29¢
5.27 to 5.44.....	30¢
5.45 to 5.62.....	31¢
5.63 to 5.80.....	32¢
5.81 to 5.98.....	33¢
5.99 to 6.16.....	34¢
6.17 to 6.33.....	35¢
6.34 to 6.51.....	36¢
6.52 to 6.69.....	37¢
6.70 to 6.87.....	38¢
6.88 to 7.05.....	39¢
7.06 to 7.23.....	40¢
7.24 to 7.41.....	41¢
7.42 to 7.58.....	42¢
7.59 to 7.76.....	43¢
7.77 to 7.94.....	44¢
7.95 to 8.12.....	45¢
8.13 to 8.30.....	46¢
8.31 to 8.48.....	47¢
8.49 to 8.66.....	48¢
8.67 to 8.83.....	49¢
8.84 to 9.01.....	50¢
9.02 to 9.19.....	51¢
9.20 to 9.37.....	52¢
9.38 to 9.55.....	53¢
9.56 to 9.73.....	54¢
9.74 to 9.91.....	55¢
9.92 to 10.08.....	56¢

The state, county, and stadium tax equals 56 cents for each \$10 of sales, plus the tax shown above for the fractional part of \$10.

APPENDIX F (cont'd)**5.1% State and Baseball Stadium Tax**

(To be used when the sale is subject to the 5% state tax
and 0.1% baseball stadium tax)

Amount of Taxable Sale		State and Baseball Stadium Tax Collectible
\$.01	to \$.09	0¢
.10	to .29	1¢
.30	to .49	2¢
.50	to .68	3¢
.69	to .88	4¢
.89	to 1.07	5¢
1.08	to 1.27	6¢
1.28	to 1.47	7¢
1.48	to 1.66	8¢
1.67	to 1.86	9¢
1.87	to 2.05	10¢
2.06	to 2.25	11¢
2.26	to 2.45	12¢
2.46	to 2.64	13¢
2.65	to 2.84	14¢
2.85	to 3.03	15¢
3.04	to 3.23	16¢
3.24	to 3.43	17¢
3.44	to 3.62	18¢
3.63	to 3.82	19¢
3.83	to 4.01	20¢
4.02	to 4.21	21¢
4.22	to 4.41	22¢
4.42	to 4.60	23¢
4.61	to 4.80	24¢
4.81	to 4.99	25¢
5.00	to 5.19	26¢
5.20	to 5.39	27¢
5.40	to 5.58	28¢
5.59	to 5.78	29¢
5.79	to 5.98	30¢
5.99	to 6.17	31¢
6.18	to 6.37	32¢
6.38	to 6.56	33¢
6.57	to 6.76	34¢
6.77	to 6.96	35¢
6.97	to 7.15	36¢
7.16	to 7.35	37¢
7.36	to 7.54	38¢
7.55	to 7.74	39¢
7.75	to 7.94	40¢
7.95	to 8.13	41¢
8.14	to 8.33	42¢
8.34	to 8.52	43¢
8.53	to 8.72	44¢
8.73	to 8.92	45¢
8.93	to 9.11	46¢
9.12	to 9.31	47¢
9.32	to 9.50	48¢
9.51	to 9.70	49¢
9.71	to 9.90	50¢
9.91	to 10.09	51¢

The state and stadium tax equals 51 cents for each \$10 of sales, plus the tax shown above for the fractional part of \$10.